

STATE OF MICHIGAN  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
OFFICE OF THE DIRECTOR

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In the matter of administrative proceedings    )  
against **RITE FIELD CONSTRUCTION,**            )  
**LLC**, a corporation organized under the laws    )  
of the State of Michigan and doing business    )  
at 7026 Edinborough Drive in the City of       )  
West Bloomfield, County of Wayne, State of    )  
Michigan                                                )  

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AQD No. 36-2016

ADMINISTRATIVE FINE ORDER

I. STATUTORY AUTHORITY

1. This is an administrative action pursuant to the Natural Resources and Environmental Protection Act, 1994 PA 451, (NREPA), MCL 324.101 *et seq.*, which is an act that controls pollution to protect the environment and natural resources in this State.

2. Article II, Pollution Control, Part 55 of the NREPA (Part 55), MCL 324.5501 *et seq.*, provides for air pollution control regulations in this State.

3. The MDEQ was created as a principal department within the Executive Branch of the State of Michigan pursuant to Executive Order 2011-1 and has all statutory authority, powers, duties, functions and responsibilities to administer and enforce all provisions of Part 55.

4. The Director of the MDEQ has delegated authority to the Chief of the AQD (AQD Chief) to issue this Administrative Fine Order.

5. Rule 902 of the Michigan Air Pollution Control Rules, Mich Admin Code, R 336.1902 (Rule 902), adopts by reference the National Emission Standards for Hazardous Air Pollutants, 40 C.F.R. Part 61, which include the National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M.

6. Rule 942 of the Michigan Air Pollution Control Rules, Mich Admin Code, R 336.1942 (Rule 942) states that a person that is subject to the provisions of National Emission Standard for Asbestos, 40 C.F.R. Part 61, Subpart M, shall comply with those provisions.

7. Under the delegated authority of the AQD Chief, pursuant to Section 5529 of Part 55, MCL 324.5529, the MDEQ may assess an administrative fine of up to \$10,000.00 for each instance of violation and, if the violation continues, for each day of continued noncompliance, if the MDEQ, on the basis of available information, finds that the person has violated or is in violation of Part 55 or rule promulgated under Part 55, has failed to obtain a permit required under Part 55, violates an order under

Part 55, or has failed to comply with the terms of a permit issued under Part 55. If a single event constitutes an instance of violation of any combination of Part 55, a rule promulgated under Part 55, or a permit issued or order entered under Part 55, the amount of the administrative fine for that single event shall not exceed \$10,000.00 for that violation. The assessment of an administrative fine may be either a part of a compliance order or a separate order issued by the MDEQ.

8. The authority of the MDEQ under Section 5529 of Part 55 is limited to matters where the total administrative fine sought does not exceed \$100,000.00 and the first alleged date of violation occurred within twelve (12) months prior to initiation of the administrative action. Except as may otherwise be provided by applicable law, the MDEQ shall not condition the issuance of a permit on payment of an administrative fine assessed pursuant to Section 5529.

## II. ALLEGATIONS

9. Rite Field Construction LLC (Company) is a construction company located at 7026 Edinborough Drive in the City of West Bloomfield, Michigan.

10. The MDEQ alleges that on December 17, 2015, the Company violated the National Emission Standards for Asbestos, 40 C.F.R. Part 61, Subpart M and Rule 942. Specifically, the MDEQ alleges that the Company failed to remove regulated asbestos-containing material (RACM) prior to demolition, failed to estimate the amount of RACM, failed to contain RACM in a leak tight container, failed to wet RACM during demolition, and failed to deposit asbestos-containing material as soon as practical.

## III. ADMINISTRATIVE FINE

11. Based on the alleged violations in this Administrative Fine Order, the seriousness and the duration of the violations alleged, the size of the Company's business, the economic impact of the administrative fine on the business, the Company's full compliance history and good faith efforts to comply, the economic benefit of noncompliance, and other factors, the MDEQ is assessing an administrative fine of \$2,500.00 for the alleged violation in this Administrative Fine Order.

12. The administrative fine reflects a presumption of the Company's ability to pay the penalty, to continue in business based on the size of its operation and the economic impact of the administrative fine on its business.

13. Within thirty (30) days after the effective date of this Administrative Fine Order, the Company shall pay to the General Fund of the State of Michigan, in the form of a check made payable to the "State of Michigan" and mailed to the Michigan Department of Environmental Quality, Accounting Services Division, Cashier's Office, P.O. Box 30657, Lansing, Michigan 48909-8157, an administrative fine of \$2,500.00, which includes AQD costs for investigation and enforcement. To ensure proper credit, all payments made pursuant to this Administrative Fine Order shall include the "Agreement Identification No. AQD40147" on the face of the check. This administrative fine is in addition to any fees, taxes, or other fines that may be imposed on the Company by law.

14. Pursuant to Section 5528 of Part 55, MCL 324.5528, the Company has been given an opportunity to resolve the alleged violation(s) in paragraph 10 of this Administrative Fine Order through entry of an administrative consent order.

15. Upon payment by the Company of the administrative fine pursuant to paragraph 13 of this Administrative Fine Order, the MDEQ shall consider the alleged violation(s) as set forth in paragraph 10 to be resolved.

#### IV. NOTICE OF OPPORTUNITY TO REQUEST A HEARING

16. Within twenty-eight (28) days of being assessed an administrative fine from the MDEQ through this Administrative Fine Order, a person may file a petition with the MDEQ for review of this administrative fine. Review of the fine shall be conducted pursuant to the contested case procedures of the Administrative Procedures Act, MCL 324.24.271 to MCL 24.287.


#### V. GENERAL PROVISIONS

17. This Administrative Fine Order in no way affects the Company's responsibility to comply with any other applicable state and federal, or local laws or regulations, including without limitation, any amendments to the federal Clean Air Act, 42 USC 7401 *et seq.*, Part 55, or their rules and regulations, or to the State Implementation Plan.

18. Section 5530 of Part 55, MCL 324.5530, may serve as a source of authority but not a limitation under which this Administrative Fine Order may be enforced. Further, Part 17 of the NREPA, MCL 324.1701 *et seq.*, and all other applicable laws and any other legal basis or applicable statute may be used to enforce this Administrative Fine Order.

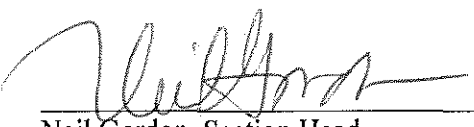
19. This Administrative Fine Order becomes effective on the date of execution (effective date of this Administrative Fine Order) by the AQD Chief.

Approved as to Content:

  
Lynn Fiedler, Chief  
AIR QUALITY DIVISION  
DEPARTMENT OF  
ENVIRONMENTAL QUALITY

Dated: 8/18/16

Approved as to Form:

  
Neil Gordon, Section Head  
ENVIRONMENTAL REGULATION SECTION  
ENVIRONMENT, NATURAL RESOURCES,  
AND AGRICULTURE DIVISION  
DEPARTMENT OF ATTORNEY GENERAL

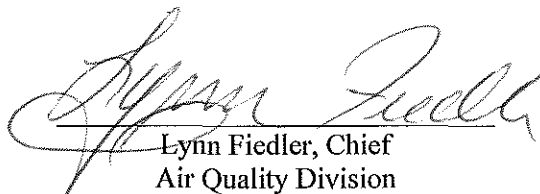
Dated: 8/15/16

ADMINISTRATIVE FINE ORDER

The Chief of the Air Quality Division having had opportunity to review the Administrative Fine Order and having been delegated authority to enter into Administrative Fine Orders by the Director of the Michigan Department of Environmental Quality pursuant to the provisions of Part 55 of NREPA and otherwise being fully advised on the premises,

HAS HEREBY ISSUED the approved Administrative Fine Order and it shall be entered in the record of the MDEQ as a Final Order.

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY



Lynn Fiedler, Chief  
Air Quality Division

Effective Date: 8/18/16