UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFRONIA 94105

ENFORCEMENT AND COMPLIANCE
ASSURANCE DIVISION

ELECTRONIC MAIL
RETURN RECEIPT REQUESTED

Elio Torrealba
Director, Air Quality Compliance
SA Recycling LLC
2411 N. Glassell Street
Orange, CA 92865

Re: Finding and Notice of Violation R9-CAA-22-1004
SA Recycling LLC
Bakersfield, California

Dear Elio Torrealba:

Enclosed is a copy of the Finding and Notice of Violation ("NOV") that the U.S. Environmental Protection Agency Region 9 ("EPA") is issuing to SA Recycling LLC. ("SA Recycling"), for violations of the Clean Air Act ("CAA"). Specifically, EPA finds that SA Recycling has violated and continues to violate Title V of the CAA, 42 U.S.C. §§ 7661a-7661f and federally-enforceable requirements in the San Joaquin Valley Air Pollution Control District ("SJVAPCD") portion of the California State Implementation Plan ("SIP") at its facility located at 2000 E Brundage Ln, Bakersfield, CA 93307.

Sections 113(a)(1), 113(b) and 113(d) of the CAA authorize EPA to issue an order requiring compliance with the requirements of the CAA, issue an administrative penalty order, or commence a civil action seeking an injunction and/or civil penalty. *See* 42 U.S.C. §§ 7413(a), 7413(b), 7413(d). Further, Section 113(c) of the CAA provides for criminal penalties in certain cases. *See* 42 U.S.C. § 7413(c).

SA Recycling may, upon request, confer with the EPA. SA Recycling may request a conference with EPA within ten (10) working days of the receipt of this NOV. The conference will afford SA Recycling an opportunity to present information on the specific findings of violation, the nature of the violations, and any efforts SA Recycling may have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage SA Recycling to submit to EPA information responsive to the NOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

If you have any questions pertaining to this NOV, please contact Scott Connolly of the Enforcement and Compliance Assurance Division at (415) 947-4141 or connolly.scott@epa.gov, or have your attorney contact Denise Leong of the Office of Regional Counsel at (415) 972-3409 or leong.denise@epa.gov.

Thank you for your cooperation in this matter.

Sincerely,

JOEL JONES

Digitally signed by JOEL JONES
Date: 2022.03.16 14:17:48 -07'00'

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9

Enclosure

cc: Ryan Hayashi, San Joaquin Valley Air Pollution Control District (Via Email)
Todd Sax, California Air Resources Board (Via Email)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9

IN THE MATTER OF:	)	
	)	
SA Recycling LLC	)	**FINDING AND NOTICE**
	)	**OF VIOLATION**
Bakersfield, California	)	
	)	**R9-CAA-22-1004**
Proceedings Pursuant to	)	
Section 113(a)(1) of the	)	
Clean Air Act, 42 U.S.C.	)	
§ 7413(a)(1)	)	

FINDING AND NOTICE OF VIOLATION

This Finding and Notice of Violation ("NOV") is issued pursuant to Section 113(a) of the Clean Air Act 42 U.S.C. § 7401-7671q ("CAA" or "the Act"). Section 113(a)(1) requires the Administrator of the United States Environmental Protection Agency ("EPA") to notify any person in violation of a state implementation plan ("SIP") of the violations. This NOV is issued to SA Recycling LLC ("SA Recycling") for violations of the CAA at its facility located in Bakersfield, California. Specifically, this NOV alleges violations of the San Joaquin Valley Air Pollution Control District ("SJVAPCD") portion of the federally enforceable California SIP. This NOV also notifies SA Recycling of violations of the Title V of the CAA. The authority to issue NOVs has been delegated to the Regional Administrator of EPA, Region 9, and re-delegated to the Director of the Enforcement and Compliance Assurance Division for EPA, Region 9.

STATUTORY AND REGULATORY BACKGROUND

Clean Air Act Title V Operating Permit Program Requirements

1. Title V of the CAA, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including "major sources" and "major stationary sources."

2. Section 502(a) of the Act provides that after the effective date of any permit program approved or promulgated pursuant to the Title V of the Act, it is unlawful for any person to operate a Title V affected source, except in compliance with a permit issued by a permitting authority under Title V of the Act.

3. Under Section 502(b) of the Act, EPA promulgated 40 C.F.R. Part 70, "State Operating Permit Programs," which provides for the establishment of comprehensive state air quality permitting programs consistent with the requirements of Title V of the Act. EPA's Part 70 regulations define the minimum elements required by the Act for state operating permit programs, among other things. *See* 40 C.F.R. § 70.1.

4. Section 502(d) of the Act requires each state to develop, and submit to EPA for approval, a permit program meeting the requirements of Title V of the Act, including the requirements of the Part 70 State Operating Permit Programs regulations.

5. Under Section 502(e) of the Act, EPA maintains its authority to enforce permits issued by a state.

6. Section 503(c) of the CAA, 42 U.S.C. § 7661b(c), and 40 C.F.R. § 70.5(a) provide that any person required to have a permit under Title V must timely submit an application for a permit.

7. SJVAPCD adopted Regulation 2, Rule 2520 ("Federally Mandated Operating Permits") to meet the requirements of title V of the Act, and 40 C.F.R. Part 70. EPA granted interim approval of Regulation 2, Rule 2520 on April 24, 1996 and full approval on October 19, 2001. *See* 61 Fed. Reg. 18,083 and 66 Fed. Reg. 53,151.

8. The San Joaquin Valley Area, including Kern County, is designated as nonattainment and classified as "extreme" for both the 2008 and 2015 8-hour ozone National Ambient Air Quality Standards ("NAAQS"). *See* 40 C.F.R. § 81.305. Therefore, all sources in Kern County with a potential to emit ("PTE") volatile organic compounds ("VOCs") or oxides of nitrogen above 10 tons per year are considered major stationary sources and required to obtain major source operating permits. 40 C.F.R. § 70.2.

9. 40 C.F.R. § 70.1(b) provides that all sources subject to the Part 70 regulations shall have a permit to operate that assures compliance by the source with all applicable requirements, as defined in 40 C.F.R. § 70.2.

10. 40 C.F.R. § 70.5(a) provides that the owner or operator, for each Part 70 source, must submit a timely and complete permit application in accordance with this 40 C.F.R. Part 70.

11. 40 C.F.R. § 70.7(b) provides, in part, that no Part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program except in compliance with a permit issued under a Part 70 program.

San Joaquin Valley Air Pollution Control District Compiled Rules and Regulations

12. Section 110(a)(1) of the CAA requires each state to adopt and submit to EPA for approval a plan that provides for the implementation, maintenance, and enforcement of each of the NAAQS. Such plans, once approved by EPA, are known as State Implementation Plans, or SIPs.

13. EPA has approved Regulation 1 ("General Provisions"), Rule 1020 as amended on February 21, 2013, into the SJVAPCD portion of the California SIP. *See* 64 Fed. Reg. 29,790 (Jun. 3, 1999).

a. SJVAPCD Section Rule 1020-3.33 as approved into the California SIP defines "person" as: any person, firm, association, organization, partnership, business trust, corporation, company, contractor, supplier, installer, user or owner, or any state or local governmental agency or public district or any officer or employee thereof.

14. EPA has approved Regulation 2 ("Permits") Rule 2520 into the SJVAPCD portion of the California SIP. *See* 64 Fed. Reg. 39,920 (Jul. 23, 1999).

a. SJVAPCD Section 2520-3.12 as approved into the California SIP defines "federally enforceable" as: enforceable by the EPA or the public.

b. SJVAPCD Section 2520-3.26 defines "potential to emit" as: the maximum capacity of an emissions unit to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design only if the limitation or the effect it would have on emissions is incorporated into the applicable permit as a federally enforceable permit condition, or is contained in an EPA approved SIP. In addition, until 1/25/97 any physical or operational limitation on the capacity of the source to emit a pollutant, including pollution control equipment and restrictions in hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if such limitations are contained in a SJVAPCD permit, or a SJVAPCD SIP submittal on which EPA has not taken a final action.

c. SJVAPCD Section 2520-3.19 defines "major source," as the same as that defined in District Rule 2201 (New and Modified Stationary Source); except that the reference to a threshold in tons per year of nitrogen oxides shall not apply with respect to any source for which the EPA Administrator has made a finding, under section 182(f)(1) or (2) of the CAA, that requirements under section 182(f) of the CAA do not apply.

d. SJVAPCD Section 2201- 3.24 defines "major source" as each pollutant, a Stationary Source with post-project emissions or a post-project Stationary Source Potential to Emit (SSPE2), equal to or exceeding one or more of the following threshold values (in pounds per year): 20,000 for VOC and NOx, 200,000 for CO, 140,000 for PM 2.5, PM10 and SOx.

e. SJVAPCD Section 2520-2.3 states that the provisions of the federally mandated operating permits apply to major sources.

f. SJVAPCD Section 2520-5.1.1 provides that for sources subject to the requirements of District Rule 2520, and in existence prior to effective date of the District's Part 70 permitting program, no later than 12 months after the effective date of the District's Part 70 permitting program.

g. SJVAPCD Section 2520-5.1.2 provides that for sources that becomes subject to the requirements of District Rule 2520, including sources previously exempt from the requirements of Rule 2520 pursuant to section 5.2 of Rule 2530, no later than 12 months after the source becomes subject to the requirements of this rule.

FINDINGS OF FACT

15. SA Recycling owns and operates a metal shredding and recycling facility located at 2000 E Brundage Ln, Bakersfield, California ("Facility") in Kern County.

16. SA Recycling is a "person" as defined by SJVAPCD Section Rule 1-33.3.

17. Kern County is part of the San Joaquin Valley Area nonattainment area which is classified as "extreme" for both the 2008 and 2015 8-hour ozone NAAQS.

18. SA Recycling stores, processes, and recycles ferrous and non-ferrous scrap metals from end-of-life vehicles and post-consumer sheet metal at the Facility.

19. Scrap metal is shredded in a metal shredder, which includes an electric hammermill shredder at the Facility.

20. On or about May 12, 2009, SJVAPCD issued SA Recycling an authority to construct permit allowing SA to modify its scrap metal and automobile shredding and separating system and included a production limit of 2,300 tons of shredded material in one day.

21. The Facility's current throughput limit for the hammermill shredder is 2,300 tons of shredded material per day.

22. On or about May 8, 2020, EPA issued a Section 114(a) information request to SA Recycling that requested, among other things, information about the Facility.

23. In October 2021, SA Recycling submitted to SJVAPCD a Permit Application to Update VOC Emission Factor and Install a VOC Control System for Permit to Operate.

24. On December 14, 2021, EPA Region 9 conducted an announced on-site inspection of the Facility. Inspectors from the California Air Resources Board ("CARB") and SJVAPCD were also present at the inspection. SA Recycling granted access to the Facility during the inspection and SA Recycling personnel were present to answer questions.

25. During the on-site inspection, EPA inspectors observed various process areas at the Facility, including the hammermill shredder.

26. Since at least May 12, 2009, when SA Recycling was issued an authority to construct permit that included the hammermill shredder throughput limit of 2,300 tons per day, SA Recycling has had the potential to emit more than 10 tons per calendar year of VOCs.

27. The Facility is a "major source" as defined at 42 U.S.C. § 7661(2) and in SJVAPCD Section 2-3.19.

28. By operating as a major source, the Facility is subject to the requirements of the CAA Title V, 42 U.S.C. §§ 7661a-7661f.

29. By operating the Facility as a major source, SA Recycling is subject to the major source requirements SJVAPCD Section 2520, CAA Section 502(b) and 40 C.F.R. § 70.7(b).

30. To date, SA Recycling has not applied for or received a Title V permit for the Facility.

31. To date, SA Recycling does not have any emissions control equipment on its shredder or a federally enforceable limit that reduces VOC emissions to below 10 tons per year.

FINDING OF VIOLATION

32. SA Recycling is operating the Facility as a major source with the potential to emit at least 10 tons per year of VOCs but failed to submit a timely application for a Title V permit, in violation of CAA Section 502 and 40 C.F.R. § 70.7(b).

33. SA Recycling is operating the Facility as a major source without submitting a Part 70 permitting program application, in violation of SJVAPCD Section 2520.

NOTICE OF VIOLATION

34. Notice is given to SA Recycling that the Administrator of the EPA, by authority duly delegated to the undersigned, finds that SA Recycling violated CAA Section 502, 40 C.F.R. § 70.7(b), CAA Section 110, and SJVAPCD Section 2520 in the California SIP, as set forth in the Findings of Violation.

ENFORCEMENT

35. Section 113(a)(1) of the Act and 40 C.F.R. Part 19 provide that, at any time following thirty (30) days after the EPA issues a notice of violation of a requirement or prohibition of an applicable implementation plan or permit, the EPA may:
    - issue an order requiring compliance with the requirement or prohibition;
    - issue an administrative penalty order pursuant to section 113(d) of the Act for civil administrative penalties; or
    - bring a civil action pursuant to section 113(b) of the Act for injunctive relief and/or civil penalties.

    The amount of civil penalties that may be recovered for violations such as those discussed above of the CAA and its implementing regulations is set by statute. *See* 40 C.F.R. Part 19.

    Furthermore, if a person knowingly violates any requirements of an applicable implementation plan more than thirty (30) days after the date of issuance of this NOV,

section 113(c) of the Act provides for criminal penalties or imprisonment, or both. 42 U.S.C. § 7413(c). Under section 306(a) of the Act (42 U.S.C. § 7606(a)), the regulations promulgated thereunder (2 C.F.R. Part 1532), and Executive Order 11738, persons convicted of an offense under Section 113(c) of the Act are disqualified from receiving federal contracts, grants, and loans.

PENALTY ASSESSMENT CRITERIA

36. Section 113(e)(1) of the Act states that, in determining the amount of any penalty to be assessed, the Administrator shall take into consideration (in addition to such other factors as justice may require) the size of the violator, the economic impact of the penalty on the violator, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

37. Section 113(e)(2) of the Act allows the Administrator to assess a penalty for each day of violation. For the purposes of determining the number of days of violation, where EPA makes a prima facie showing that the conduct or events giving rise to this violation are likely to have continued or recurred past the date of this NOV, the days of violation shall be presumed to include the date of this NOV and each and every day thereafter until the violator establishes that continuous compliance has been achieved, except to the extent that the violator can prove by a preponderance of the evidence that there were intervening days during which no violation occurred or that the violation was not continuing in nature.

OPPORTUNITY FOR CONFERENCE

38. SA Recycling may, upon request, confer with the EPA. The conference will enable SA Recycling to present evidence bearing on the finding of violation, on the nature of the violations, and on any effort, it may have taken or proposes to take to achieve compliance. SA Recycling has the right to be represented by counsel. A request for a conference with the EPA must be made within ten (10) working days of receipt of this NOV, and the request for a conference or other inquiries concerning the NOV should be made in writing, via electronic mail to:

Denise Leong
Assistant Regional Counsel
U.S. Environmental Protection Agency, Region 9
(415) 972-3409
leong.denise@epa.gov

ENVIRONMENTAL IMPACT OF VIOLATIONS

39. These violations can cause and have caused excess emissions of VOCs.

40. VOCs are photochemical oxidants associated with a number of detrimental health effects, which include birth defects and cancer, as well as environmental and ecological effects. In the presence of sunlight, VOCs are influenced by a variety of meteorological conditions and have the ability to create photochemical smog. VOCs react with oxygen in the air to produce ground-level ozone.

41. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

3/15/2022

Date

AMY MILLER-BOWEN Digitally signed by AMY MILLER-BOWEN Date: 2022.03.15 09:17:33 -07'00'

Amy C. Miller-Bowen
Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 9