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**THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH**

UNITED STATES OF AMERICA,

Plaintiff,

v.

STERICYCLE INC.,

Defendant.

Case No. 1:21-cv-00012-JNP

COMPLAINT

Judge Jill N. Parrish

Plaintiff, the United States of America, by authority of the Attorney General of the United States and acting at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this Complaint and alleges the following:

NATURE OF THE ACTION

1. This is a civil action against Stericycle, Inc. (“Stericycle” or “Defendant”) pursuant to Section 113(b) of the Clean Air Act (the “Act”), 42 U.S.C. § 7413(b).
2. Plaintiff seeks civil penalties for alleged violations of the Act’s program to regulate solid waste incineration units as set forth in Section 129 of the Act, 42 U.S.C. § 7429, and the regulations promulgated thereunder, and the Act’s program for Federal operating permits as set forth at Title V of the Act, 42 U.S.C. §§ 7661–7661f, and the regulations promulgated thereunder.

JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action, pursuant to 28 U.S.C. §§ 1331, 1345, and 1355, and Section 113(b) of the Act, 42 U.S.C. § 7413(b).
4. Venue is proper in this District pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b), and 28 U.S.C. §§ 1391(b) and 1395(a), because the violations alleged in this Complaint are alleged to have occurred in, and Defendant conducts business in, this judicial district.

NOTICE

5. Notice of the commencement of this action has been given to the State of Utah as required under Section 113(b) of the Act, 42 U.S.C. § 7413(b).

DEFENDANT

6. Stericycle is a Delaware corporation headquartered in Lake Forest, Illinois and licensed to do business in the State of Utah. Stericycle provides business services that include medical and pharmaceutical waste management.

7. At all times relevant to this Complaint, Stericycle owned and operated a hospital, medical, and infectious waste incinerator (“HMIWI”) located at 90 North 1100 West, North Salt Lake, Utah (the “Facility”).

8. Stericycle is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

STATUTORY AND REGULATORY BACKGROUND

Emission Guidelines for Existing HMIWI

9. Section 129 of the Act, 42 U.S.C. § 7429, requires EPA to establish performance standards and other requirements pursuant to Section 111, 42 U.S.C. § 7411, for certain categories of solid waste incineration units. The performance standards must include guidelines for existing incineration units. 42 U.S.C. § 7429(b)(1).

10. A “solid waste incineration unit” means a “distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public.” 42 U.S.C. § 7429(g)(1).

11. States with existing solid waste incineration units are required to submit to the EPA for approval plans to implement and enforce the guidelines. 42 U.S.C. § 7429(b)(2). Within two years of promulgating guidelines for existing sources, EPA is required to develop and implement a federal plan for existing units in states without an approved state plan.

12. In 1997, the EPA promulgated standards of performance for new HMIWI and emission guidelines for existing HMIWI. 62 Fed. Reg. 48,348 (Sept. 15, 1997). Emission guidelines for existing HMIWI are codified at 40 C.F.R. Part 60, Subpart Ce. Emission

guidelines for existing HMIWI apply to facilities for which construction was commenced on or before June 20, 1996. 40 C.F.R. § 60.32e(a)(1).

13. The EPA approved the State of Utah's HMIWI plan ("Utah HMIWI Plan") on June 22, 2000. 65 Fed. Reg. 38,732. Utah's HMIWI Plan is codified in the Utah Administrative Code at r.307-220 and r.307-222 and incorporates federal emission guidelines for existing sources at Subpart Ce.

14. Effective December 7, 2009, the EPA amended the Subpart Ce requirements and lowered the NOx emission limit for large HMIWI to 140 ppmv based on a three-run average. 74 Fed. Reg. 51,368 (Oct. 6, 2009). After the EPA promulgated the 2009 amendments to Subpart Ce, states were required to submit amended state plans for approval. *Id.* at 51,374. On May 13, 2013, the EPA amended the federal plan for HMIWI, codified at 40 C.F.R. Part 62, Subpart HHH, to incorporate the 2009 amendments to Subpart Ce. 78 Fed. Reg. 28,052. The revised federal plan went into effect on June 12, 2013 for any state that did not have an approved amended plan as of October 6, 2011, which included the State of Utah. *Id.* at 28,056. Plaintiffs allege violations of the NOx emission limit prior to June 12, 2013.

15. Before June 12, 2013, the NOx emission limit for existing HMIWI in Utah was 250 ppmv based on a three-run average as measured in accordance with EPA Method 7. Utah Admin. Code r. 307-222-4 (requiring compliance with emission limitations at 40 C.F.R. Part 60, Subpart Ce).

16. HMIWI may comply with applicable emission limits by setting operating parameters that ensure a HMIWI will not exceed the limit. Operating parameters are established through performance tests, which consist of a "minimum of three test runs conducted under

representative operating conditions.” 40 C.F.R. §§ 60.37e(a), 60.56c(b)(1). Operating parameters for HMIWI may include, among other things, the “charge rate,” which is generally the amount of waste fed into the incinerator expressed as pounds per hour.

17. Emission guidelines at 40 C.F.R. Part 60, Subpart Ce also establish reporting requirements, including the requirement to report annually “[a]ny use of the bypass stack, the duration, reason for malfunction, and corrective action taken.” 40 C.F.R. § 60.38e(a) (requiring compliance with 40 C.F.R. § 60.58c(d)); *see also* Utah Admin. Code r. 307-222-3 (requiring compliance with reporting provisions at 40 C.F.R. § 60.58c(d)).

18. “After the effective date of any performance standard, emission limitation or other requirement promulgated pursuant to [Sections 129 and 111 of the Act], it shall be unlawful for any owner or operator of any solid waste incineration unit to which such standard, limitation or requirement applies to operate such unit in violation of such limitation, standard or requirement or for any other person to violate an applicable requirement of this section.” 42 U.S.C. § 7429(f)(3).

Title V Operating Permits

19. Each source subject to Section 129 performance standards must operate pursuant to a permit issued under Section 129 and Title V of the Act. 42 U.S.C. § 7429(e).

20. States must submit permitting programs to the EPA for approval. 42 U.S.C. § 7661a(d). Permits issued under EPA-approved programs must contain emission limitations and standards, including operational requirements and limitations that ensure compliance with all applicable requirements, as well as any monitoring, recordkeeping, and reporting under applicable requirements. 40 C.F.R. § 70.6.

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