

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR

RECEIVED

In the Matter of:)
)
Coppola Bus Inc.)
21 S. Central St.)
Haverhill, MA 01835)
)
Respondent)
_____)

Docket No. CAA 01-2017-0072

800 717 717
EPA ORC WS
Office of Regional Hearing Clerk

CONSENT AGREEMENT AND FINAL ORDER

The Complainant, United States Environmental Protection Agency, Region I (“EPA”), alleges that Coppola Bus Inc., located at 21 S. Central Street, Haverhill, Massachusetts (“Respondent” or “Coppola”) violated certain provisions of the Massachusetts state implementation plan (“SIP”) that prohibits the excessive idling of motor vehicles. EPA may enforce SIP provisions under Section 113 of the Clean Air Act (the “Act”), 42 U.S.C. § 7413.

EPA and Respondent agree to settlement of this matter through this Consent Agreement and Final Order (“CAFO”) without the filing of an administrative complaint, as authorized under 40 C.F.R. § 22.13(b).

EPA and Respondent agree that settlement of this matter is in the public interest, and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter.

Therefore, before taking any testimony, upon the pleadings, without adjudication of any issue of fact or law, and upon consent and agreement of the parties, it is hereby ordered and adjudged as follows:

A. PRELIMINARY STATEMENT

1. The provisions of this CAFO shall apply to and be binding on EPA and on Respondent, its officers, directors, successors and assigns. The “Effective Date” of this CAFO shall be defined as the date that this CAFO is filed with the Regional Hearing Clerk, as described in the Final Order attached to this Consent Agreement.
2. Respondent stipulates that EPA has jurisdiction over the subject matter alleged in this CAFO. Respondent waives any defenses it might have as to jurisdiction and venue. Respondent consents to the terms of this CAFO.
3. Respondent neither admits nor denies the specific factual and legal allegations below in Section B. For purposes of this CAFO and any action necessary to enforce it, Respondent hereby waives its right to request a judicial or administrative hearing or otherwise to contest the allegations in this CAFO. Respondent waives any right to appeal this CAFO.
4. Under Section 113(d)(1)(B) of the Act, 42 U.S.C. § 7413(d)(1)(B), the Debt Collection Improvement Act (“DCIA”), 31 U.S.C. § 3701, and EPA’s Civil Monetary Penalty Inflation Adjustment Rules, promulgated thereunder at 40 C.F.R. Part 19, EPA may assess a civil administrative penalty of up to \$37,500 per day for each violation of the Clean Air Act occurring after December 6, 2013, and up to \$44,539 for each day of each violation occurring after November 2, 2015.

B. EPA FINDINGS

5. The Commonwealth of Massachusetts has adopted a SIP within the meaning of Section 113(a)(1) of the Act, which has been approved by EPA under Section 110 of the Act, 42 U.S.C. § 7410. The Massachusetts SIP includes various federally approved portions of the Massachusetts Air Pollution Control Regulations at 310 CMR § 7.00 *et seq.*

6. The Massachusetts SIP includes the regulation at 310 CMR § 7.11(1)(b) (the “Massachusetts idling regulation”), which provides that no person shall cause, suffer, allow, or permit the unnecessary operation of the engine of a motor vehicle while such vehicle is stopped for a foreseeable period in excess of five minutes, unless such operation is in accordance with a listed exception.

7. At a school bus facility operated by Respondent in Haverhill, Massachusetts, EPA alleges to have observed the unnecessary operation of the engines of motor vehicles while such vehicles were stopped for a foreseeable period in excess of five minutes. On February 28, 2017, EPA observed 14 buses idling for more than five minutes, with six of those buses idling for over 30 minutes. On March 29, 2017, EPA observed 15 buses idling for more than five minutes, with one of those buses idling for over 30 minutes. EPA also alleges that the observed idling did not accord with any exception listed in 310 CMR §§ 7.11(1)(b)(1), (2) or (3).

8. Accordingly, EPA alleges that Respondent violated the Massachusetts idling regulation at 310 CMR § 7.11(1)(b), rendering Respondent liable for penalties under Section 113(d) of the Act.

9. EPA has provided notice to Respondent, and to the Massachusetts Department of Environmental Protection, of EPA’s findings of violations described in this CAFO, at least 30 days prior to the issuance of an administrative penalty order under Section 113(d) of the Act.

C. TERMS OF SETTLEMENT

10. Respondent shall comply with all SIP regulations in Massachusetts. In addition, if in the future, Respondent expands its school bus operations outside of Massachusetts, Respondent shall comply with all SIP regulations in such states that limit engine idling by motor vehicles at all facilities owned or operated by Respondent.

11. In light of the statutory factors of Section 113(e) of the Act, EPA has determined that it is fair and proper to assess a civil penalty for the violations alleged in this CAFO in the amount of \$18,000. Respondent shall pay the penalty of \$18,000 within thirty (30) days of the effective date of this CAFO by submittal of a bank, cashier's or certified check for \$18,000.

12. Respondent shall make its payment(s) by submitting a check(s), to the order of the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall note the case name and docket number of this action on the check and in an accompanying cover letter, and shall simultaneously provide copies of the check and cover letter to:

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (ORA 04-6)
Boston, MA 02109-3912

and

Tim Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I
5 Post Office Square, Suite 100 (OES04-3)
Boston, MA 02109-3912

13. Pursuant to Section 113(d)(5) of the CAA, if Respondent fails to pay the penalty amount it will be subject to an action to compel payment, plus interest, enforcement expenses, and a nonpayment penalty. 42 U.S.C. § 7413(d)(5). Interest will be assessed on the penalty if it is not paid by the due date established herein. In that event, interest will accrue from the date the CAFO was signed by the EPA Regional Judicial Officer, at the "underpayment rate" established

pursuant to 26 U.S.C. § 6621(a)(2). In the event that the penalty is not paid when due, an additional charge will be assessed to cover the United States' enforcement expenses, including attorneys' fees and collection costs. A quarterly nonpayment penalty will be assessed for each quarter during which the failure to pay the penalty persists. Such nonpayment penalty shall be 10 percent of the aggregate amount of Respondent's outstanding penalties and nonpayment penalties hereunder accrued as of the beginning of such quarter.

D. GENERAL PROVISIONS

14. All submissions required by this Order shall be sent to:

If by Respondent:

Director, Office of Environmental Stewardship
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100 (OES04-2)
Boston, MA 02109-3912
Attention: Abdi Mohamoud

If by EPA:

Nelson D. Blinn, President
Coppola Bus Inc.
21 S. Central St.
Haverhill, MA 01835

15. The civil penalty under Paragraph 11, above, any interest, and the nonpayment penalties and/or charges as described in Paragraph 13, above, shall represent penalties assessed by EPA and shall not be deductible for purposes of federal taxes, and shall not be deductible for purposes of state, or local taxes unless allowed by law.

16. This CAFO constitutes a settlement by EPA of all claims against Respondent for civil penalties pursuant to Section 113 of the Act for the violations alleged in Section B of this CAFO. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced

pursuant to Federal laws and regulations administered by EPA for matters not addressed in this CAFO, and it is the responsibility of Respondent to comply with all applicable provisions of federal, state, or local law. EPA reserves all its other criminal and civil enforcement authorities, including the authority to seek injunctive relief and the authority to address imminent hazards.

17. Each party shall bear its own costs and fees in this proceeding, including attorneys' fees, and specifically waives any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504, or other applicable law.

E. AUTHORIZATION

18. Each party certifies that at least one of their undersigned representatives is fully authorized to enter into the terms and conditions of this CAFO and to execute and legally bind such party to this document.

In the Matter of Coppola Bus Inc., Docket No. CAA-01-2017-0072

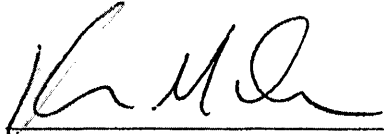
Consent Agreement and Final Order

COPPOLA BUS INC.

Name *Nelson Blinn* Date *11-27-17*
Title *President*

In the Matter of Coppola Bus Inc., Docket No. CAA-01-2017-0072
Consent Agreement and Final Order

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Karen McGuire, Acting Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region I

12-7-17

Date



Timothy M. Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency, Region I

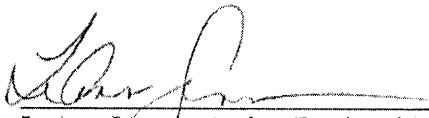
12/4/17

Date

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) of the United States Environmental Protection Agency's Consolidated Rules of Practice, the parties to this matter have forwarded an executed Consent Agreement to me for final approval. In accordance with 40 C.F.R. § 22.18(b) and Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d), the foregoing Consent Agreement resolving this matter is hereby incorporated by reference into this Final Order and is hereby ratified. The Respondent, Coppola Bus Inc., is hereby ordered to comply with the terms of the above Consent Agreement, which will become effective on the date it is filed with the Regional Hearing Clerk.

U.S. ENVIRONMENTAL PROTECTION AGENCY



LeAnn Jensen, Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region 1

12/8/17
Date

I certify that the foregoing "Consent Agreement" and "Final Order," in the Matter of the Coppola Bus Inc., Docket No. CAA-01-2017-0072, were sent to the following persons on the date noted below:

Original and One Copy
(Hand-Delivered):

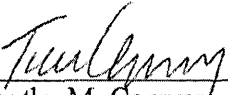
Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency – Region I
5 Post Office Square
Suite 100, Mail Code OES04-6
Boston, MA 02109-3912

Copy, including
(First class mail):

Nelson D. Blinn, President
Coppola Bus Inc.
21 S. Central Street
Haverhill, MA 01835

Dated:

12/11/17



Timothy M. Conway
Senior Enforcement Counsel
U.S. Environmental Protection Agency - Region 1
5 Post Office Square
Suite 100, Mail Code OES04-3
Boston, MA 02109-3912



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NEW ENGLAND REGION

December 12, 2017

Wanda Santiago
Paralegal/Regional Hearing Clerk
U.S. Environmental Protection Agency
Region I
5 Post Office Square
Boston, Massachusetts 02109

RECEIVED

DEC 13 2017
EPA ORC WS
Office of Regional Hearing Clerk

Re: Coppola Bus Inc., Respondent
Docket No. CAA-01-2017-0072

Dear Ms. Santiago:

Enclosed for filing in the above-referenced matter, please find the original and one copy of the executed Consent Agreement and Final Order in this matter.

Thank you for your assistance in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Timothy M. Conway".

Timothy M. Conway
Senior Enforcement Counsel

Enclosures

cc:
Nelson Blinn, President
Coppola Bus Inc.