

Air Enforcement: United States Department of Justice and Owego, New York, Metal Shredding Facility Enter into Consent Decree



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The United States Department of Justice (“DOJ”) entered into a Consent Decree (“CD”) with Upstate Shredding, LLC (“Upstate”) and Weitsman Shredding, LLC (“Weitsman”) addressing an alleged violation of an air permit.

The CD was entered in the United States District Court for the Northern District of New York. See Civil No. 3:23-cv-847 (AMN/ML).

The CD provides that Upstate failed to implement Reasonably Available Control Technology (“RACT”) to control emissions of volatile organic compounds (“VOC”) at its metal shredding facility (“Facility”) in Owego, New York. A simultaneously filed Complaint further alleged that the Facility has the annual potential to emit 50 tons or more of VOC, and the potential to emit more than 3.0 pounds of VOC per hour or 15 pounds of VOC per day. Therefore, the Complaint alleged that Upstate had not installed RACT to control VOC emissions, or otherwise complied with 6 N.Y.C.R.R. § 212-3, which is part of the New York State Implementation Plan.

Neither Upstate nor Weitsman admit any liability to the United States arising out of the occurrences alleged in the Complaint.

The CD imposes certain compliance requirements which include:

- Installation of a permanent enclosure and operate and maintain a capture system at the shredder to ensure shredder emissions will be captured and routed to the air pollution control equipment required under Paragraph 15 of the CD
- Install, operate, and maintain certain specified air pollution control equipment addressing:
 - Particulate matter control
 - VOC control
 - Acid gas control
- Install and operate for a specified period of time a temporary CEMS that monitors the outlet VOC concentrations of the regenerative thermal oxidizer and meet certain EPA performance and specifications.
- Submit an application to modify the existing air facility regulation certificate and permit.

- Conduct a Performance Test designed to demonstrate initial compliance with the modified permit and establish ongoing and federally enforceable compliance requirements/operating parameter limits for the air pollution control equipment and emission enclosure and capture system.
- Undertake certain recordkeeping and reporting requirements.

A civil penalty of \$400,000 is assessed.

A copy of the CD can be downloaded [here](#).