



State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

Department of  
Environmental Quality

Amanda Smith  
*Executive Director*

DIVISION OF AIR QUALITY  
Bryce C. Bird  
*Director*

DAQ-101-14

**MEMORANDUM**

**TO:** Air Quality Board

**THROUGH:** Bryce C. Bird, Executive Secretary

**FROM:** Harold Burge, Major Source Compliance Section Manager

**DATE:** November 25, 2014

**SUBJECT:** Stericycle, Incorporated Administrative Settlement Order No. 2013051501

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Stericycle, Incorporated (Stericycle) operates a hospital/medical/infectious waste incinerator (HMIWI) located at 90 North Foxboro Drive, North Salt Lake, Davis County, Utah. On May 28, 2013, the Division of Air Quality (DAQ) issued a Notice of Violation and Order to Comply (NOV). On August 28, 2013, DAQ issued an Amended NOV that superseded the original NOV. By April 10, 2013, Stericycle had demonstrated compliance with all of their emission limits through stack testing.

Stericycle filed a request for Agency Action (RFAA) on September 27, 2013, which requested an evidentiary hearing to challenge the Amended NOV. On April 24, 2014, the Executive Director of the Utah Department of Environmental Quality (DEQ) appointed an Administrative Law Judge (ALJ) to conduct an administrative hearing to adjudicate the merits of the Amended NOV and RFAA. DAQ and Stericycle have engaged in a series of settlement negotiations starting before and continuing after the issuance of the NOV and Amended NOV. The attached Administrative Settlement Order is a result of those negotiations. The major provisions of the Administrative Settlement Order are:

1. A total penalty amount is \$2,322,536.
2. Stericycle will pay half of the total penalty (\$1,161,268) within 30 days of the effective date of the Administrative Settlement Order.
3. In lieu of paying the remaining half of the total penalty (\$1,161,268), Stericycle will relocate to Tooele County and permanently cease operations at its North Salt Lake Facility within 3 years of obtaining all necessary permits and approvals for the new facility and Stericycle's Title V Permits and Approval Orders for the North Salt Lake Facility will be voided. The new facility will have better control technology and will be sited away from population centers.

In accordance with Utah Code Ann. 19-2-104(3)(b)(i), this memorandum is provided to the Utah Air Quality Board (UAQB) for review since the penalty exceeds \$25,000. The signed Administrative Settlement Order has been provided in the packet. DAQ is seeking approval to enter into this Administrative Settlement Order to avoid further legal delays in resolving the Amended NOV and to ensure that operations at the North Salt Lake Facility cease as quickly as possible. The DAQ will withhold any further action on this case until the UAQB approves or disapproves the settlement.

Staff Recommendation: Staff recommends the UAQB approve the penalty amount and Administrative Settlement Order No. 2013051501.

BEFORE THE UTAH DIVISION OF AIR QUALITY

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In The Matter of : Administrative Settlement Order  
Stericycle, Incorporated :  
No. 2013051501 :

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**RECITALS**

This Administrative Settlement Order ("Agreement") is entered into between Stericycle, Incorporated ("Stericycle") and the Director of the Utah Division of Air Quality ("DAQ," "Director," or "Division") pursuant to the Utah Air Conservation Act, Utah Code Ann. § 19-2-101 et seq. ("Act") and Utah Administrative Code ("UAC") Rule 305-7-320. For purposes of this Agreement, DAQ and Stericycle shall be referred to collectively as the "Parties."

1. **Utah Air Quality Board's and DAQ's Authority.**

The DAQ has authority to administer the Act, and to issue notices of violation and orders and to exercise all incidental powers necessary to carry out the purposes of the Act. Utah Code Ann. § 19-2-107. The Parties may agree to settle an action pursuant to Rule 305-7-320. The Utah Air Quality Board ("Board") has the authority to review and approve a settlement negotiated by the DAQ that requires a civil penalty of \$25,000 or more. Utah Code Ann. § 19-2-104(3)(b)(i).

2. **Stericycle.**

Stericycle operates a hospital/medical/infectious waste incinerator located at 90 North Foxboro Drive, North Salt Lake, Davis County, Utah ("Facility").

3. **NOV and Amended NOV.**

DAQ issued a Notice of Violation and Order to Comply to Stericycle on May 28, 2013 ("NOV") and DAQ issued an Amended Notice of Violation and Order to Comply ("Amended NOV") to Stericycle on August 28, 2013. The Amended NOV superseded the NOV. The Amended NOV alleges that Stericycle violated several conditions of the Title V Operating Permit 1100055002 dated February 19, 2009.

4. **Request for Agency Action.**

Stericycle filed a Request for Agency Action ("RFAA") on September 27, 2013, which requested an evidentiary hearing to challenge the Amended NOV.

5. **Appointment of Administrative Law Judge.**

On April 24, 2014, the Executive Director of the Utah Department of Environmental Quality appointed an Administrative Law Judge ("ALJ") to conduct an administrative hearing to adjudicate the merits of the Amended NOV and RFAA.

6. **Settlement Discussions.**

The Parties have engaged in a series of settlement discussions starting before and continuing after the filing of the NOV and Amended NOV. As part of those discussions, it was suggested that one aspect of a resolution could involve moving Stericycle's incinerator operations at the Facility to another location, if a suitable, remote location could be found for a new incinerator in Utah, that would be built with better air pollution control technology than is currently required at the Facility but that would also be buffered from population centers and sited in compliance with setbacks within its property boundaries consistent with applicable land use regulations. Stericycle has found what it believes to be a suitable location, has entered into an agreement to purchase property at that location, and has begun the process to obtain the necessary approvals to construct and operate a new incinerator at this new location. In order to provide further incentive to Stericycle to complete this process, the Parties have agreed to the penalty payment structure outlined in Paragraph 11 below.

7. **Purpose.**

The purpose of this Agreement is to settle the violations alleged in the NOV dated May 28, 2013 and the Amended NOV dated August 28, 2013. This settlement shall not in any way relieve Stericycle of any obligation to comply with applicable, federal, state or local laws, rules or regulations, and nothing in this settlement shall preclude DAQ from taking appropriate action to abate a threat to public health or the environment should such a situation arise.

8. **No Admissions.**

The Parties now wish to resolve this matter fully without admissions of: any factual allegations or findings in the NOV or Amended NOV, any violations of law, rule, regulation or permit, any liability, wrongdoing, failure or omissions whatsoever; and without further administrative or judicial proceedings.

9. **Payments.**

Without any admission of liability, wrongdoing, or negligence, Stericycle has agreed to undertake the actions and make the payments identified in Paragraph 11 below.

10. **Mutual Interest.**

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The Parties believe that it is in their mutual best interest to execute this Agreement and to settle the NOV and Amended NOV.

### AGREEMENT AND ORDER

NOW THEREFORE, without adjudication of any issue of fact or law and without admission of any liability, and subject to the approval of the Board, the Parties hereby agree and DAQ orders as follows:

11. In settlement of the alleged violations referenced in Paragraphs 3 and 7 of this Agreement, Stericycle, agrees to a total stipulated penalty of \$2,322,536.00, one half of which will be paid to the State of Utah upon execution of this Agreement as provided below, and the other half of which will be credited as provided below.
  - a. Civil Penalty paid to the State. Stericycle agrees to pay one-half of the penalty amount within thirty (30) days of the effective date of this Agreement, by wire transfer of funds in the amount of \$1,161,268 payable to the State of Utah.
  - b. Supplemental Environmental Project (SEP) Credit for Remaining Civil Penalty. The remaining one-half of the penalty amount (\$1,161,268) shall be credited as a Supplemental Environmental Project at the time Stericycle permanently stops operating the North Salt Lake Facility which will occur no later than three years from the date Stericycle obtains the final, non-appealable permits from the Utah Department of Environmental Quality (DEQ), all non-appealable local governmental approvals necessary to commence construction of the new incinerator and the Governor's approval referenced in Utah Code Ann. Section 19-6-108 (3)(c)(i) (hereinafter "All Necessary Approvals to Construct").
12. If the \$1,161,268 payment referenced in Paragraph 11.a. is not made within 30 days, additional penalties shall accrue at the rate of \$10,000 a day and DAQ may enforce payment through a civil action in Second District Court.
13. In order to ensure prompt and diligent efforts to relocate the Facility from its current location in North Salt Lake, Stericycle agrees to comply with the following:
  - a. Within 90 days of the date that DAQ signs this Agreement, Stericycle shall submit to the Utah Department of Environmental Quality ("DEQ") all permit applications (over which DEQ has jurisdiction) necessary to relocate the Facility to a new location.
  - b. 60 days from the date Stericycle obtains All Necessary Approvals to Construct, Stericycle will provide DAQ with a schedule for the construction of the incinerator in the new location in Tooele County, Utah.

- c. Every 90 days thereafter, Stericycle shall provide DAQ with a report describing in detail Stericycle's good faith efforts to complete the construction referred to in Paragraph 13.b.

14. Within three years after the date that Stericycle obtains All Necessary Approvals to Construct, Stericycle's Title V Operating Permit 1100055002 (issued February 19, 2009) or any subsequent Title V Operating Permit renewal and Approval Order DAQE-AN101420011-14 (issued August 12, 2014) for the North Salt Lake Facility shall become null and void and Stericycle shall permanently cease operation at the North Salt Lake Facility.
15. None of the provisions of this Agreement shall be considered admissions by Stericycle and shall not be used by any third party related or unrelated to this Agreement for purposes other than determining the basis of this Agreement. This Agreement resolves any and all liability and claims under the authority of the DAQ arising from the NOV's listed in Paragraphs 3 and 7 of this Agreement against Stericycle, its officers, employees and agents and against any other unnamed owners and/or operators of the North Salt Lake Facility at the time of the alleged violations.
16. Nothing in this Agreement shall preclude the DAQ from seeking civil penalties for violations of this Agreement, future violations of the Act or Rules, or to issue future Notices or Orders. Nothing in this Agreement shall constitute a waiver by Stericycle of any defense or the ability to raise any factual or legal contention for future alleged violations, or in response to future Notices or Orders.
17. All notices, requests, demands, and other communications hereunder shall be in writing and shall be given by (i) established express delivery service which maintains delivery records, (ii) hand delivery, or (iii) certified or registered mail, postage prepaid, return receipt requested, to the Parties at the following addresses, or at such other address as the Parties may designate by written notice in the following manner:

Director

Bryce C. Bird  
Utah Division of Air Quality  
P.O. Box 144870  
Salt Lake City, UT 84114-4870

Stericycle

Attn: Richard Kogler  
Stericycle, Inc.  
28161 N. Keith Drive  
Lake Forest, IL 60045

With a copy to:

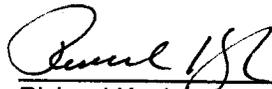
Christian C. Stephens  
Office of Utah Attorney General  
P.O. Box 140873  
Salt Lake City, UT 84114-0873

Raymond J. Etcheverry  
Parsons Behle & Latimer  
201 South Main Street, Suite 1800  
Salt Lake City, UT 84111

18. Successors and Assigns. All of the rights and obligations of the Parties under this Agreement shall be binding upon and inure to the benefit of their permitted successors. Stericycle shall not assign this Agreement without the written permission of DAQ.
19. Authority to Execute. Each person executing this Agreement individually and personally represents and warrants that he or she is duly authorized to execute and deliver the same on behalf of the entity for which he or she is signing, and that all corporate and/or legislative authority and approvals, as the case may be, have been obtained, and that this Agreement is a binding obligation on such entity.
20. Entire Agreement. This Agreement, which includes all recitals and terms hereto, constitutes the entire agreement between the Parties relating to the subject matter of this Agreement, and incorporates all prior correspondence, communications or agreements between the Parties relating to the subject matter of this Agreement, and cannot be altered except in writing signed by all Parties.
21. This Agreement shall be executed as follows: Stericycle shall execute this Agreement first. The Parties shall then present the Agreement to the Board for approval. If the Board approves the Agreement without change, DAQ will execute the Agreement.

Agreed:

Stericycle, Incorporated



Richard Kogler  
Chief Operating Officer

Date: 11/25/14

Agreed and Ordered:

\_\_\_\_\_ Date: \_\_\_\_\_  
Bryce C. Bird, Director  
Utah Division of Air Quality