
FCA US LLC

RESPONSE TO COMMENTS DOCUMENT

December 1, 2022

Consent Order No. 2022-16



Gretchen Whitmer, Governor

Air Quality Division
Michigan Department of Environment, Great Lakes, and Energy

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PUBLIC PARTICIPATION PROCESS

Consent order No. 2022-16, requires FCA US LLC (FCA), to pay a fine, follow a compliance program, and complete a Supplemental Environmental Project (SEP) (Exhibit B of the consent order). The consent order resolves violations alleged by the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Air Quality Division (AQD) at FCA's Detroit Assembly Complex Mack (Mack Plant), located at 4000 Saint Jean Street, Detroit, Michigan. The public participation process involved providing information for public viewing, including a Proposed Enforcement Summary (PES), Enforcement Summary Report (ESR), and a proposed Administrative Consent Order (consent order). An extended 45-day public comment period was held, during which members of the public provided verbal and written comments on the proposed consent order.

Note: During the public notice and comment period, the AQD used "Stellantis" when describing the company. The proper name is FCA US LLC, which we have abbreviated to FCA. All instances of where "Stellantis" was or could have been used in this document have been changed to "FCA".

On September 19, 2022, the comment period was opened. The public participation process involved holding an online information session and public hearing and providing information for public review including:

- The PES, ESR, and proposed consent order were placed on the AQD Public Notice webpage for [Proposed Consent Orders Open for Comment](#).
- The [Facility Specific Information page on FCA](#) provided an update on the public comment period.
- Notifications and updates were sent via email to persons who had previously expressed interest in FCA and had provided a valid email address.
- A [recording](#) of the informational session and public hearing.

Public Comment Period and Opportunities to Participate

To notify the public about the comment period, the AQD staff:

- Provided copies of the PES, ESR, and proposed consent order on the AQD's Public Comment webpage at [Michigan.gov/EGLEAirPublicNotice](#).
- Information on enforcement action was posted on EGLE's FCA (Stellantis) webpage at [Michigan.gov/EGLEStellantis](#)
- A notice of the start of the comment period, the date of the informational session and public hearing, and the end of the comment period were posted on the [EGLE Calendar](#).

- An announcement about the comment period, public hearing and associated details were shared via EGLE's subscription service to subscribers to the Air Quality, Environmental Justice topics, and FCA lists.
- Attended Michigan Advisory Council on Environmental Justice meetings on September 15 and October 20, 2022, to provide an overview of the consent order, proposed Supplemental Environmental Projects (SEPs), and public comment period.
- Met with members of the City of Detroit Neighborhood Advisory Council on October 6, 2022, to provide an overview of the consent order, proposed SEPs and public comment period.
- Met with Congresswoman Tlaib, Senator Chang, Great Lakes Environmental Law Center and community members on October 18, 2022 to discuss the consent order, proposed SEPs, and public comment period.

The virtual information session and public hearing were held on October 19, 2022. Approximately 114 people attended the virtual information session. Representatives from the AQD were available to answer questions about the proposed consent order during the information session. Mary Ann Dolehanty, AQD Division Director, was the decision maker for the action and Jenifer Dixon served as the hearing officer. The information session began at 6:00 p.m. and the public hearing followed afterward, ending at approximately 7:45 p.m. During the public hearing, verbal comments were provided for the record.

Summary of Changes

As a result of additional information and comments received, the following changes were made to the consent order:

- **RTO2 must begin operation by June 30, 2023.** The AQD made this change in response to numerous public comments and a projected timeline shared by FCA for completing the construction and installation of the second RTO (RTO2). While the AQD continues to review the Permit to Install (PTI) application for RTO2 submitted on May 9, 2022, to modify PTI No. 14-19A, there may be a period of time where FCA is operating RTO2 before the modified PTI is issued. The consent order requires FCA to operate RTO2 according to the RTO manufacturer's recommendations and according to the Nuisance Minimization Plan for Odors (NMPO) during this time period. Upon issuance of the modified PTI, FCA will be required to operate RTO2 according to the terms and conditions of the modified PTI.
- **Addition of the October 4, 2022, violation notice to the consent order, with a \$10,000 increase to the monetary fine.** During an odor complaint investigation on September 20, 2022, the AQD staff observed objectionable paint, solvent, and chemical odors being emitted from the Mack Plant. As a result, the AQD sent a violation notice to FCA on [October 4, 2022](#), citing a violation of Mich Admin Code, R 336.1901 (R 901). This violation notice has been resolved in the consent order. The statutory maximum penalty of \$10,000 has been added to the monetary fine.
- **Updated Nuisance Minimization Plan for Odors (NMPO).** FCA's response to the October 4, 2022 violation notice stated the company detected diminishing performance

of the dosage regulator that proportions the amount of odor-neutralizing material injected. As this dosage regulator was being replaced on September 30, 2022, excess odors were emitted, resulting in complaints and the subsequent violation notice. The updated NMPO requires FCA to keep a replacement dosage regulator on site.

- **Removal of the Brewer Park Supplemental Environmental Project (SEP).** Based on feedback heard during the public comment period, FCA was concerned there is not broad support in the neighborhood for the Brewer Park SEP, and has therefore withdrawn the SEP. SEPs are voluntary projects a company can use to offset portions of a monetary fine for a community project meeting specific criterion within EGLE's [SEP Policy](#). A SEP is not required by state or federal law. The portion of monetary fine previously allocated to this SEP has been incorporated into the monetary fine FCA will pay to the State of Michigan general fund.
- **Changed the monetary fine that is being paid to the State of Michigan general fund.** Due to FCA withdrawing the Brewer Park SEP and the inclusion of the October 4, 2022 violation notice, the monetary fine increased from \$62,863 to \$136,832.

Public Comments

A total of 19 comments were received during the Public Comment Period.

The remainder of this document is a listing of the significant comments received during the public comment period and hearing regarding the proposed consent order and the AQD's response. The *Summary of Significant Comments* section below discusses the comments received and if changes were made to the final consent order terms and conditions, the change(s) made and the basis for the change(s).

Summary of Significant Comments

1. Comment

The \$62,863 fine is not large enough and does not serve as a deterrent to FCA. FCA should pay a fine that takes into account health effects and damage to the surrounding community. EGLE should have assessed the heaviest possible fine for FCA to pay.

AQD Response

The total monetary settlement is at least \$283,832, accounts for the violations being resolved, and includes a Supplemental Environmental Project (SEP). Specifically, FCA will spend at least \$147,000 on the SEP for Southeastern High School and will pay a monetary fine of \$136,832 to the State of Michigan general fund. The monetary fine was increased after the public notice and comment period because the SEP for Brewer Park was withdrawn by FCA, and a \$10,000 fine was added for the additional violation notice issued for nuisance odors in October 2022.

When a SEP is included as part of a settlement, the amount of monetary fine the company pays to the general fund is lower because a portion of the fine is spent on the SEP rather than being paid to the general fund. If FCA had not proposed a SEP, the total monetary fine of over \$280,000 would have been paid to the general fund.

The AQD consistently follows the United States Environmental Protection Agency's Clean Air Act Stationary Source Civil Penalty Policy ([USEPA Penalty Policy](#)) to calculate monetary fines. The USEPA Penalty Policy sets out violation categories and corresponding fines based on:

- The gravity of the alleged violations,
- The actual and possible harm to the environmental and public health,
- The importance of achieving the goals of the Clean Air Act and Michigan's Air Pollution Control Rules, and
- The length of time the violations occurred, the size of violator, aggravating and mitigating factors such as cooperation, history of noncompliance, and degree of negligence, and inflation.

Using the USEPA Penalty Policy, the calculated monetary fine in this case included each of the following categories:

- Where the violations happened or sensitivity of the environment. The Mack Plant is located in a marginal nonattainment area for ozone,
- Length of time FCA was out of compliance with its' permit requirements,
- Importance of achieving the goals of the Clean Air Act and Michigan's Air Pollution Control Rules. The AQD included monetary fines for the improper routing of emissions from the ambient flash zones in the paint shop,
- The size of the company,
- How cooperative the company was in correcting the violations, and
- How negligent the company was when the violations happened. The monetary fine was increased to account for FCA's degree of negligence when constructing the ductwork, leading to the improper routing of emissions from the ambient flash zones in the paint shop.

The AQD also included monetary fines for seven days of verified nuisance odors that unreasonably interfered with nearby residents' comfortable enjoyment of life and property, in violation of Mich Admin Code R 336.1901(b) (Rule 901). Because these are state only violations, the USEPA Penalty Policy is not used to calculate this portion of the monetary fine. The AQD calculated the maximum fine under the state statute of \$10,000 per violation per day for all seven Rule 901 violations.

The AQD believes that by entering the consent order to resolve the cited violations and paying at least \$283,832 for the monetary settlement, there is appropriate deterrence to prevent future similar violations. In addition, under this settlement, FCA may be required to pay additional stipulated fines if there are future violations of the consent order.

2. Comment

What is being done to hold FCA accountable for making changes to comply with the air quality rules and regulations and Rule 901?

AQD Response

This consent order is a legally enforceable document. By signing this consent order, FCA has agreed to follow and complete the compliance plan and comply with Rule 901. If FCA does not follow the consent order, they may be required to pay stipulated fines. A stipulated fine can be assessed on a per violation per day basis, which serves to deter FCA from not complying with the consent order.

Additionally, if violations continue to be cited after RTO2 is installed and the AQD determines the odor problem has not been resolved, other actions may be considered, including but not limited to, payment of stipulated fines, requiring modifications to the NMPO to include additional corrective actions, or starting a new enforcement action.

3. Comment

More responsibility should be put on FCA to make sure they are actually using pollution control technology that removes pollutants and odors from the air.

AQD Response

FCA is required to comply with their air permits. The permits include requirements to properly install and operate air pollution control equipment at their facilities. Additionally, air permits include requirements to limit allowed air pollution emissions, conduct stack testing, properly monitor and operate equipment, and keep records to make sure companies such as FCA comply with state and federal air quality rules and regulations. The AQD district staff regularly perform complaint investigations, inspections, and review records to check for compliance.

The consent order puts additional requirements on FCA, such as requiring the installation and operation of RTO2, additional testing of equipment, and compliance with the NMPO. If FCA does not follow these requirements, they may be subject to stipulated fines.

4. Comment

EGLE should expedite getting the RTO2 installed, and there should be a timeline in the consent order for when the RTO2 should be installed. This timeline should be made publicly available. Does EGLE have the legal authority to require FCA to install the RTO2 by a certain date?

AQD Response

To expedite the installation and operation of RTO2 to address the community's concerns, a deadline of June 30, 2023 has been added to the consent order for FCA to begin operation of RTO2. The AQD made this change to the consent order in response to numerous comments received during the public notice and comment period on the proposed consent order. FCA also

shared a projected timeline with the AQD for the completion of the construction and installation of the RTO2.

On May 9, 2022, FCA submitted an application to modify PTI No. 14-19a for RTO2. While the AQD reviews the PTI application, there may be a period when FCA is operating RTO2 before the modified PTI is issued by the AQD. The consent order requires FCA to operate RTO2 according to the manufacturer's recommendations and according to the NMPO during this time. Upon issuance of the modified PTI, FCA will be required to operate RTO2 according to the terms and conditions of the new PTI.

The Mack Plant is in a [nonattainment area for ozone](#), therefore, the PTI application is subject to Nonattainment New Source Review under Part 19 of the Michigan Air Pollution Control Rules. The rules state that a PTI cannot be issued in a nonattainment area unless all of a company's facilities in the state are in compliance with the air quality rules and regulations or are on a pathway to compliance. At the time of the finalization of this consent order, FCA has unresolved violations at Warren Truck Assembly Plant (WTAP) and Jefferson North Assembly Plant (JNAP). These violations will be addressed by the AQD by separate and independent enforcement actions against FCA at both WTAP and JNAP to resolve these violations.

The AQD is working to resolve the violations at all of FCA's facilities as fast as possible. However, there are many steps to be taken before WTAP and JNAP can be considered in compliance or on the way to compliance. Because of this, it is difficult to determine a date when the permit for RTO2 can be issued. As a result, the consent order requires FCA to operate RTO2 by June 30, 2023.

5. Comment

After FCA installs RTO2, there should be a timeline to assess if these repairs have a demonstrable improvement on the quality of life for nearby residents and include further consequences for FCA if they fail to markedly improve conditions.

AQD Response

The consent order will require FCA to operate RTO2 according to manufacturer's recommendations and the NMPO to make sure odors are controlled from the paint shop. The AQD will continue to inspect and monitor compliance at the Mack Plant to ensure RTO2 is operating properly.

In addition, the modified PTI will require FCA to conduct a stack test within a specified time period to show they are properly operating the air pollution control equipment. The AQD will review the test plan and the test results and determine if FCA is meeting the terms and conditions of the PTI.

Additionally, if violations continue to be cited after RTO2 is installed and the AQD determines the odor problem has not been resolved, other actions may be considered, including but not limited to, payment of stipulated fines, requiring modifications to the NMPO to include additional corrective actions, or starting a new enforcement action.

6. Comment

As part of the compliance plan, FCA should be required to put in and pay for a monitoring system around the plant's impact area and across the whole east side. These monitors should be high quality and track the EPA criteria pollutants including Volatile Organic Compounds (VOCs), Carbon Monoxide (CO), Oxides of Nitrogen (NO₂ and NO₃), Ozone (O₃), Lead (Pb), Particulate Matter (PM), and Sulfur Dioxide (SO₂). The data should be available and accessible to the public.

AQD Response

When the AQD takes an enforcement action against a company, the resulting consent order addresses the violations that were cited in the violation notices issued by the district inspector. In this case, the violation notices were for emissions from the ambient flash zones in the paint shop going to the outside air instead of being sent to the air pollution control equipment, as required by their permit. Violation notices were also issued for nuisance odors that unreasonably interfered with nearby residents' comfortable enjoyment of life and property.

The AQD believes the requirements of the compliance plan adequately address the violations that were alleged, including minimizing nuisance odors and ensuring paint shop equipment is correctly installed, maintained, and operated; therefore, in this case the AQD did not require that FCA install monitors as part of the compliance plan to resolve the alleged violations.

7. Comment

How will FCA ensure compliance with the Nuisance Minimization Plan for Odors and ensure that nuisance odors are not emitted? Will EGLE be conducting air sampling, testing, or any other observations of FCA's operations to ensure compliance with the consent order?

AQD Response

When FCA receives a report of an offsite nuisance odor complaint, they are required to conduct field observations, record atmospheric conditions (wind direction, speed, temperature, etc.) and investigate operations at the Mack Plant that may be causing offsite nuisance odors, including any potential abnormal operating conditions. These requirements are described in the NMPO. The consent order requires FCA to comply with this plan, and FCA may be subject to stipulated fines if they violate the terms of this plan. The AQD will also continue to respond to odor complaints and conduct odor observations in response to complaints received.

On October 4, 2022, the AQD conducted air sampling around the paint shop building. This sampling was done to further evaluate sources of potential odors from the plant. On November 18, 2022, the AQD received from the testing laboratories all the results from this sampling event. The AQD is in the process of evaluating the results and will share additional information with the public when its evaluation is complete. Additional sampling may be considered depending on the findings from this sampling event.

The AQD will also continue to conduct inspections and complaint investigations of FCA to check for compliance with the consent order.

8. Comment

Will EGLE staff be present for the “destruction and removal efficiency testing” on the existing RTO?

AQD Response

Yes, the AQD staff make observations of stack tests on a consistent basis.

9. Comment

How is this action considered escalated enforcement if it is voluntary?

AQD Response

A consent order is a voluntary yet legally binding document that a company agrees to in order to resolve their air quality violations. It is voluntary in the sense that the AQD is required to offer a company in escalated enforcement the opportunity to settle and resolve their violations through an administrative process, which results in a legally binding consent order. Once a company signs a consent order, compliance with the consent order, including following the compliance plan and paying the monetary fine, is not voluntary and is legally required. If a company chooses not to settle their violations through the administrative process and resolve their violations through a consent order, they and their violations may be referred to the Michigan Department of Attorney General or to the US Environmental Protection Agency to resolve the violations.

10. Comment

We understand that given current policy, the money from the fines FCA would pay will go directly into the State of Michigan’s general fund, with no guarantees that the funds will be used for investments in Detroit. We support systemic state policy change that would require the fines from polluting facilities to be directed into a fund for Environmental Justice communities such as ours to ensure that people most impacted get access to investments first.

AQD Response:

Per MCL18.1443 of the Michigan Management and Budget Act, monetary fines paid under a consent order must go to the State of Michigan General Fund unless a portion of the fines are going to a SEP as part of a settlement. Additionally, a SEP is a voluntary project that a company elects to do as part of a settlement and, while the AQD evaluates the company’s proposed SEP in accordance with the EGLE SEP Policy, the AQD cannot require any certain project or direct the funds in any way. At this time, EGLE does not have the authority to put monetary fines into any other fund.

In these settlements, EGLE requires alleged violators to achieve and maintain compliance with applicable state and federal rules and regulations, to take action to cease the activities contributing to or causing the alleged violations, and to pay monetary fines. In lieu of payment of a portion of the monetary fines, an alleged violator may propose a SEP as part of the

settlement. Although a settlement may include a SEP, monetary fines are a necessary part of any enforcement settlement, and a SEP cannot offset the entire monetary fine.

11. Comment

SEPs should not be negotiated directly with polluting companies.

AQD Response

A SEP is an environmentally beneficial project that is not required by state or federal law. A company may agree to complete a SEP as part of the settlement of an enforcement action. As required by [EGLE's SEP Policy](#), in lieu of payment of a portion of the monetary fines, a company may propose a SEP as part of the settlement. The AQD cannot require a company to do a certain project or direct funds in any way. If proposed, the SEP must meet specific criteria to be an acceptable part of the settlement. Once approved, completing a SEP is a legal requirement under the consent order.

The SEP Policy encourages a company to get community input as part of the SEP development process. During the start of enforcement negotiations, the AQD shared SEP ideas from the Great Lakes Environmental Law Center and the City of Detroit with FCA. FCA contacted the Great Lakes Environmental Law Center, the City of Detroit Parks and Recreation, and the City of Detroit Public School District to discuss proposals. In addition, the AQD staff met with members of the City of Detroit Public School District to further discuss the Southeastern High School project. Ultimately, the Building Management System at Southeastern High School and the tree planting at Brewer Park were identified as the SEPs FCA proposed to do as part of the consent order. Note, as previously mentioned, the Brewer Park SEP was withdrawn by the company.

The SEP Policy does not allow EGLE to choose projects for companies in escalated enforcement and cannot direct who the company meets with and where the SEP dollars should go. The company submits proposals that are reviewed, and if the project meets the SEP policy, the project is approved. The projects FCA proposed are approvable under the SEP Policy, so there was no reason to deny these projects.

12. Comment

Which residents were consulted in the development of the proposed consent order? Were residents of Beniteau Street, who are mostly directly impacted, thoroughly engaged and consulted? The impacted community was not consulted to develop the SEPs. Both FCA and EGLE should have met with community members, including the residents of Beniteau Street to understand their priorities and address their concerns. EGLE should have checked to see if FCA contacted community members during the development of the SEPs, including the people who made odor complaints to EGLE.

AQD Response

The AQD acknowledges that the community outreach did not reach the level that some of the residents on Beniteau Street and the community surrounding the Mack Plant desired.

Although the AQD encourages community input, it is not required to approve a SEP. It is considered in how the AQD rates the SEP and determines the penalty mitigation. Even if the AQD removed the credit given to FCA for community input under the SEP policy, the two SEP projects would still be approvable under the SEP Policy.

13. Comment

Meeting with the City of Detroit and Detroit Public Schools should not have been considered as community input and was not the appropriate community input. Coordinating with city departments and large organizations is not meaningful community engagement, and FCA should not receive any credit from EGLE for this. The consent order should require FCA to coordinate directly with the impacted residents to understand their priorities and address their concerns.

AQD Response

The AQD disagrees with this comment. The SEPs received credit for community input because FCA sought input on the SEPs from the Great Lakes Environmental Law Center, the City of Detroit Public School, the City of Detroit Parks and Recreation Department and The Greening of Detroit.

Per the SEP Policy, the AQD encourages a company to obtain community input on a proposed SEP. The extent to which a company seeks community input is up to the company and is not mandated by the AQD. However, community input is incentivized in the SEP policy. Under the Quality Rating Procedure, the rating for community input is considered, and in this case FCA received credit for community input. Additionally, the community was provided the opportunity to submit comments during the public comment period. The consent order is not final until after the comment period ends. The AQD reviews all comments received and takes all substantive comments into account before making a final decision. The SEP policy highlights the importance and benefits of community input.

EGLE's SEP policy states "both EGLE staff and the alleged violator can seek community input on SEP ideas collaboratively. If EGLE staff are aware of community interest in a particular SEP, that information should be shared with the alleged violator early in the SEP development process". During the start of enforcement negotiations with FCA, the AQD shared SEP ideas from the Great Lakes Environmental Law Center and from the City of Detroit with FCA. In addition, the AQD staff met with members of the City of Detroit Public Schools to further discuss the Southeastern High School project.

The SEP Policy also states, "the extent of community input and participation in the SEP development process will vary with each settlement." The AQD believes that the community input that was sought on the development of the SEPs for this enforcement action met the intent of the SEP policy.

Based on the numerous comments expressing the dissatisfaction with the community input portion of the SEP development process, EGLE will further evaluate these comments and potential revisions to the SEP policy in the future to better define the process for ensuring "meaningful involvement and input from the affected community" in environmental justice communities when a SEP is developed.

14. Comment

The AQD received comments requesting that FCA be required to implement different SEP projects than the ones included in the consent order:

- FCA should have done a home repair program as a SEP, including installing and/or replacing windows, air filters, and insulation. This SEP should include improvements to air filtration and purification. This SEP should have allowed residents to receive repairs over the \$15,000 cap set by the City of Detroit.
- FCA should have done a voluntary home buyout program as a SEP. The voluntary buyout program should include the purchase of new properties and address the long-term impacts of displacement such as employment and education resources, mental health resources, and health care resources.
- The SEP could require a donation to the City's Public Health Fund.
- FCA should install an air filtration and HVAC system similar to the SEP that Marathon completed at Mark Twain instead of the BMS.
- The youth who attend Southeastern High School have yet to be consulted on how FCA can mitigate the harmful effects of going to school next door to a factory. Members of our Teen Advisory Council took it upon themselves to find out what youth community benefits should be included. 5 ways the students would like FCA to invest in the school: (drivers training, a new parking lot, afterschool programs, updated technology, scholarships).

AQD Response

A consent order is a mechanism for the AQD to bring a company into compliance with state and federal air quality rules and regulations. The AQD cannot direct funding to projects outside the scope of the settlement and the SEP FCA proposed. The AQD cannot require FCA conduct a specific project as part of this settlement. The SEP FCA will complete is voluntary and meets the requirements of the SEP policy.

15. Comment

The AQD received the following comments on the Brewer Park tree planting project:

- How was tree planting selected as a supplemental environmental project? Brewer Park is too far away from the plant to have been considered for a SEP.
- What quantifiable air quality improvement is expected from planting 80 trees? How was their cost determined?
- Air modeling should be conducted to ensure tree plantings do not trap pollution among homes between Brewer Park and the facility.

- EGLE should ensure land swaps do not imperil project benefits. EGLE should propose means to ensure the limited community benefits presented by this project are fully attained by confirming the property will be in the hands committed to the long-term health residents and their community.

AQD Response

This SEP was ultimately withdrawn by FCA based on adverse public comments on the proposed project and is no longer a part of the consent order.

16. Comment

How specifically will a new Building Management System at Southeastern High School improve air quality in the building? What system is being installed, and how was it selected?

AQD Response

Detroit Public Schools Community District (DPSCD) selected Tridium Niagara as its Building Management System (BMS) Platform. Currently, most schools within DPSCD that have a BMS are utilizing this platform. The district is taking steps to host all schools on the Tridium Niagara platform on one central server to maximize operations within the district.

FCA's SEP proposal also states:

The BMS will also improve indoor air quality with effective ventilation control. For maximum performance, the ventilation system will use automatic controls linked to air quality sensors. When the sensors detect an increase in air pollution levels, the ventilation system responds to reduce the concentration of pollutants. The BMS will also monitor the air filtration system to help ensure indoor air is properly cleaned of pollutants.

The BMS will also balance air humidity, which improves indoor air quality. High humidity levels provide an ideal environment for mold, dust mites, and bacteria, which can have a negative effect on indoor air quality and can negatively affect human health. Low humidity can irritate the respiratory system, eyes, and skin. Airborne particles and viruses also stay in the air longer with low humidity, increasing the chance of inhalation. The BMS will help eliminate these risks. The BMS will also improve health and wellbeing by automatically adjusting the building's temperature and lighting, maintaining an ideal level of comfort within the facility which can help employee productivity.

17. Comment

EGLE should commit to creating a SEP "bank" to increase the meaningfulness of future projects and community input.

AQD Response

Ensuring "meaningful involvement and input from the affected community" when the SEP is developed is important. Based on the numerous comments expressing dissatisfaction with the community input portion of the SEP development process in this case, EGLE will be further

evaluating these comments and whether revisions to the SEP policy are needed. EGLE acknowledges that developing a SEP bank in Michigan to create a formal process for obtaining community input, especially in environmental justice communities, and before an enforcement action occurs, could result in better projects and added benefits to the affected community. EGLE will be considering this comment, meeting with community leaders, and evaluating the staffing, resources, and potential policy changes that would be needed to implement a SEP bank program in Michigan.

18. Comment

EGLE has grounds to shut FCA down. FCA should not be able to continue the production of vehicles until the repairs are completed. If EGLE is able to grant permits for permitting facilities to open, then they should also have the power to discontinue these permits until the facility proves it has the proper equipment in place to minimize health impacts on surrounding residents and students at nearby schools.

AQD Response

The AQD has the statutory authority to revoke a permit under Part 5510 of the National Resources and Environmental Protection Act (NREPA). In order to revoke a permit, the AQD must be able to show there is a substantial and imminent threat to public health and lives. The data collected so far has not shown there is a substantial and imminent threat to public health from the air emissions from FCA.

What the AQD can do is to hold FCA accountable to their permit conditions and the state and federal rules and regulations. As needed, EGLE will continue to evaluate emissions from FCA and may partner with Michigan Department of Health and Human Services to evaluate public health concerns in the community.

19. Comment

Will the State of Michigan require FCA suspend all paint shop operations while they construct and install RTO2?

AQD Response

No. However, the consent order will require FCA to construct, install, and operate RTO2 according to the RTO manufacturer's recommendations and the NMPO, and in compliance with the new permit when it is issued. FCA will likely continue to operate as usual while RTO2 is constructed and the associated duct work is put in place. Once work on RTO2 and duct work are mostly finished, FCA would use a weekend or holiday shutdown period to connect the last piece(s) of duct work and start operation.

20. Comment

EGLE should deny future permits for industrial facilities that could give rise to disparate adverse impacts.

AQD Response

This comment is outside the scope of this enforcement action, which is related to the alleged violations, compliance plan, and SEPs described in the consent order. This enforcement action is not evaluating a proposed permit.

21. Comment

The enforcement process, including SEP development, does not include environmental justice considerations.

AQD Response

Although EGLE does not have a specific environmental justice policy or rules and regulations to guide the enforcement process, the AQD strives to provide equitable treatment to environmental justice communities, including addressing concerns about disparate impacts to frontline communities when nearby industrial facilities are in violation. Specifically, in this enforcement action, the AQD has regularly updated the affected community and Beniteau Street residents about the actions it has taken to conduct inspections, sampling, responding to complaints, and escalating the alleged violations for enforcement. In this case, the AQD used multiple ways to notify the public of the opportunity to engage with its staff, file complaints about nuisance orders, and comment on the proposed consent order before it is finalized. The AQD enforcement staff attended two Michigan Environmental Justice Advisory Council meetings in September and October 2022 to answer questions and provide additional information about the proposed consent order. In October 2022, the E staff also met with members of the Detroit Neighborhood Advisory Council, a City of Detroit councilperson, a state congressperson, and a state senator regarding their environmental justice concerns about ongoing violations at the Mack Plant. In implementing the EGLE SEP policy, the AQD also strives to incentivize SEPs in environmental justice communities because it believes there are significant benefits when enforcement fines are invested back into the affected community rather than being paid to the state general fund.

22. Comment

We urge recognition of the mechanisms, both current and historical, that have allowed these inequities to persist and the implementation of policies that meaningfully incorporate a cumulative impact analysis into air permitting decisions. The increase in emissions at the Detroit facility was “offset” by reductions at the Warren facility within the permit despite knowledge of pre-existing high levels of asthma in the census tracts closest to the FCA plant. Environmental Standards were used that fail to adequately consider the cumulative impact and protection of environmental justice communities.

AQD Response

The national air quality standards and the AQD air toxics rules provide limited authority to review the combined impact of multiple pollutants and to account for background levels. The AQD understands this is a concern and a priority for communities and is continuously working to better address the issue. More comprehensive cumulative health impact assessments account for combined impacts from both chemical and non-chemical stressors. Although we are unable

to look at a more comprehensive cumulative impact analysis currently, we do look at cumulative exposure risk in the way our process allows.

23. Comment

The proposed consent order and SEPs are insufficient and do not address the health impacts to the community. The consent order should include clear provisions allowing EGLE to hold FCA accountable to meeting safety standards and improving air quality in the impacted areas.

AQD Response

The AQD makes sure that each air permit contains all applicable regulatory requirements, including health-based limits, and has sufficient monitoring, testing, and recordkeeping to determine if a company is complying with the permit conditions.

The function of this consent order is to bring FCA back into compliance with the rules and regulations that were violated. The AQD believes the requirements of the compliance plan adequately address the violations that were alleged, including minimizing nuisance odors and ensuring that the company does not operate certain parts of the paint shop unless their equipment is correctly installed, maintained, and operated.

24. Comment

Has FCA taken any action to mitigate their air pollution and improve public health in nearby communities other than what was required by their Permit to Install or the Detroit Community Benefits ordinance?

AQD Response

The AQD does not have specific information about FCA's actions to mitigate air pollution and improve public health in nearby communities outside of the scope of the AQD's regulatory role. We encourage FCA to reach out to the surrounding community to discuss the commenter's question and other community concerns.

25. Comment

FCA should have installed the pollution control equipment at the Detroit Plant like they did at the Warren Plant. The Warren plant has adequate pollution control technology, while the Detroit plant does not.

AQD Response

Both the FCA Mack Plant and Warren Plant currently have similar and an equivalent amount of air pollution control equipment which provides the same amount of emission control at each plant. The paint shops at these two plants are nearly identical and the air pollution control equipment at each plant controls the same portion of the paint booths at each plant. The addition of another RTO at the FCA Mack Plant is required because of nuisance odor violations that occurred after the permit was issued.

26. Comment

Will EGLE perform any inspections of the second RTO once it is completed? If not, why not?

AQD Response

Yes, the AQD will perform an inspection of RTO2 and will observe the required destruction efficiency test after RTO2 is installed and operating.

27. Comment

Does the Mack Plant Permit to Install include two RTOs?

AQD Response

The current permit to install, PTI No. 14-19A, only included one RTO. To address the nuisance odor violations being resolved in this consent order, FCA is required to construct and install a second RTO. In addition, in May 2022, FCA submitted a permit application requesting to modify its permit to include a second RTO. Upon issuance of the modified permit, FCA will be required to operate two RTOs at the Mack Plant.

28. Comment

EGLE should expedite the process of testing the air at and around the plant since the samples taken this summer were spoiled. There needs to be protections in place to prevent this from happening again.

AQD Response

On-site air sampling on the Mack Plant property is being done to further evaluate sources of potential odors. After samples taken in June 2022 were ruined, the air sampling was redone in early October. The AQD is awaiting the results from the laboratory. Lab analysis can take several weeks. Upon receipt and review of the sampling results, the AQD will update the community on the results.

29. Comment

Has FCA taken any action to address air and noise pollution from mobile sources, particularly trucks entering and leaving the Detroit Assembly Complex?

AQD Response

The AQD does not regulate mobile sources of air pollution or noise pollution. Concerns about emissions from mobile sources are addressed by USEPA. For more information on compliance for mobile sources, please visit <https://www.epa.gov/compliance/mobile-sources-compliance-monitoring-program>.

The AQD also does not regulate noise pollution. Noise pollution is regulated by The City of Detroit.

30. Comment

EGLE should not permit increased levels of PM_{2.5}, PM₁₀, and PM as proposed by FCA in PTI APP-2022-0125. The approval of this PTI will require FCA to install RTO₂, but FCA also proposed an unrelated increase in particulate matter emissions. EGLE should exercise its authority to keep allowable PM_{2.5}, PM₁₀, and PM emissions at the Complex unchanged.

AQD Response

This comment is outside the scope of this enforcement action, which is related to the alleged violations, compliance plan, and SEPs described in the consent order. This enforcement action is not evaluating a proposed permit.

The proposed PTI for the RTO₂ project will be shared with the public before it is issued and subject to a 45-day public notice and comment period. When the PTI is available for public notice and comment, the community will be notified, and all documents related to the proposed permit will be posted on the public notice and comment website located at Michigan.gov/EGLEAirPublicNotice, choose “Applications open for comment”.

31. Comment

How, if at all, is the hotline coordinated with EGLE’s accountability efforts? For example, is FCA obligated to share complaints reported through its hotline directly with EGLE? Are EGLE investigators dispatched after FCA receives a call indicating the presence of odors or other risks to public health? Can complaints reported to the FCA hotline result in the issuance of a violation notice by EGLE?

AQD Response

FCA’s hotline is not related to EGLE’s Pollution Emergency Alerting System (PEAS) hotline, and FCA is not obligated to share complaints with EGLE.

If FCA shares a complaint report with EGLE, the department will make every effort to investigate the report in a timely manner to determine if there is an issue. In the case of a verified odor violation, a violation notice can be issued no matter where the complaint comes from, including a direct contact with EGLE, a notification from FCA, or a complaint through the PEAS hotline.

In the event of a concern about an odor or public health issue, EGLE encourages community members to call the PEAS hotline at 1-800-292-4706 or submit an online complaint at Michigan.gov/Air choose “[Submit an air quality complaint](#)”. For odor complaints in Wayne County, residents can also call the AQD Detroit District Office at 313-456-4700. For all environmental complaints, questions, or for other information, citizens can contact the Environmental Assistance Center at 1-800-662-9278 during regular business hours.

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