



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

SC-5J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dean T. Smith
Chief Executive Officer
Specialty Heat Treating, Inc.
3700 Eastern Avenue SE
Grand Rapids, Michigan 49508

Re: Specialty Heat Treating, Inc., Elkhart, Indiana
Consent Agreement and Final Order
Docket No. CERCLA-05-2012-0002

Dear Mr. Smith:


Enclosed please find one fully executed original Consent Agreement and Final Order (CAFO) in resolution of the above case. The U.S. EPA filed the second original CAFO with the Regional Hearing Clerk on Jan 4, 2012.

Please have your client pay the CERCLA civil penalty in the amount of \$8,906 in the manner prescribed in paragraph 27 and 28, reference your check with the CERCLA billing document number 2751230B002 and the CERCLA docket number CERCLA-05-2012-0002.

The payment is due on Feb 4, 2012.

Please feel free to contact Ruth McNamara at (312) 353-3193 if you have any questions regarding the enclosed documents. Please direct any legal questions to Jose deLeon Associate Regional Counsel, at (312) 353-7456. Thank you for your assistance in resolving this matter.

Sincerely,


Michael E. Hans, Chief
Chemical Emergency Preparedness
and Prevention Section

Enclosure

RECEIVED
JAN - 4 2012

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGIONAL HEARING CLERK
REGION 5 U.S. ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:)	Docket No. CERCLA-05-2012-0002
)	
Specialty Heat Treating, Inc.)	Proceeding to Assess a Civil Penalty Under
Elkhart, Indiana)	Section 109(b) of the Comprehensive
)	Environmental Response, Compensation,
Respondent.)	and Liability Act
_____)	

Consent Agreement and Final Order
Preliminary Statement

1. This is an administrative action commenced and concluded under Section 109(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, 42 U.S.C. § 9609(b), and Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules) as codified at 40 C.F.R. Part 22.

2. The Complainant is, by lawful delegation, the Director of the Superfund Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. Respondent is Specialty Heat Treating, Inc. a corporation doing business in the State of Indiana.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO, and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), requires any person in charge of a facility to immediately notify the National Response Center (NRC) as soon as that person has knowledge of any release of a hazardous substance from the facility in an amount equal to or greater than the hazardous substance's reportable quantity.

10. Section 103(a) of CERCLA, 42 U.S.C. § 9603(a), provides a mechanism to alert federal agencies that a response action may be necessary to prevent deaths or injuries to emergency responders, facility personnel and the local community. A delay or failure to notify could seriously hamper the government's response to an emergency and pose serious threats to human health and the environment.

11. Section 109(b) of CERCLA, 42 U.S.C. § 9609(b), authorizes U.S. EPA to assess a civil penalty of up to \$25,000 per day of violation of CERCLA Section 103. The Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701 note, and its implementing regulations at 40 C.F.R. Part 19 increased the statutory maximum penalty to \$32,500 per day of violation that occurred after March 15, 2004 through January 12, 2009.

Factual Allegations and Alleged Violations

12. Respondent is a "person" as that term is defined under Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
13. At all times relevant to this CAFO, Respondent was in charge of a facility located at 55226 CR 1 N, Elkhart, Indiana (facility).
14. Respondent's facility consists of a building, structure, installation, equipment, pipe or pipeline, storage container, or any site or area where a hazardous substance has been deposited, stored, disposed of, or placed, or otherwise come to be located.
15. Respondent's facility is a "facility" as that term is defined under Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
16. Ammonia CAS# 7664-41-7 is a "hazardous substance" as that term is defined under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).
17. Ammonia CAS# 7664-41-7 has a reportable quantity of 100 pounds, as indicated at 40 C.F.R. Part 302, Table 302.4.
18. Sometime between July 13, 2007 and July 15, 2007 a release occurred from Respondent's facility of approximately 901 pounds of ammonia (the release).
19. In a 24 hour time period, the release exceeded 100 pounds.
20. During the release, approximately 901 pounds of ammonia spilled, leaked, emitted, emptied, discharged, escaped, into the ambient air.
21. The release is a "release" as that term is defined under Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
22. Respondent had knowledge of the release on July 15 2007, at approximately 3:00 a.m. ET.

23. Respondent notified the NRC of the release on July 19, 2007 at 3:55 p.m. ET.

24. Respondent did not immediately notify the NRC as soon as Respondent had knowledge of the release.

25. Respondent's failure to notify immediately the NRC of the release is a violation of Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

Civil Penalty

26. Complainant has determined that an appropriate civil penalty to settle this action is \$8,906 for the CERCLA violation. In determining the penalty amount, Complainant considered the nature, circumstances, extent, and gravity of the violation, and with respect to Respondent, its ability to pay, prior history of violations, economic benefit or savings resulting from the violation, and any other matters as justice may require. Complainant also considered U.S. EPA's Enforcement Response Policy for Sections 304, 311 and 312 of the Emergency Planning and Community Right-to-Know Act and Section 103 of the Comprehensive Environmental Response, Compensation and Liability Act, dated September 30, 1999 (EPCRA/CERCLA Enforcement Response Policy).

27. Within 30 days after the effective date of this CAFO, Respondent must pay a \$8,906 civil penalty for the CERCLA violation.

[for checks sent by regular U.S. postal service]

Send a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. EPA
Superfund Payments
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

The check must note the following: In the Matter of Specialty Heat Treating, Inc., the CERCLA docket number CERCLA-05-2012-0002⁷⁰, and the billing document number

2751230B002⁷⁰.

[for checks sent by express mail]

Send a cashier's or certified check, payable to "EPA Hazardous Substance Superfund," to:

U.S. Bank
Government Lockbox 979076
U.S. EPA Superfund Payments
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, MO 63101

The check must note the following: In the Matter of Specialty Heat Treating, Inc., the CERCLA docket number CERCLA-05-2012-0002⁷⁰, and the billing document number

2751230B002⁷⁰.

[for electronic funds transfer]

Send the electronic funds transfer, payable to "EPA Hazardous Substance Superfund" to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

The comment section must note the following: In the Matter of Specialty Heat Treating, Inc., the CERCLA docket number CERCLA-05-2012-0002⁷⁰, and the billing document number

2751230B002.

[for Automated Clearinghouse (ACH) also known as REX or remittance express

Send ACH electronic funds transfer, payable to "EPA Hazardous Substance Superfund, to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment or description field of the electronic funds transfer, note the following: In the Matter of Specialty Heat Treating, Inc., the CERCLA docket number _____, and the billing document number _____.

[for on-line payment]

To pay on-line, go to www.pay.gov. Use the Search Public Forms option on the tool bar and enter SFO 1.1 in the search field. Open the form and complete the required fields.

28. A transmittal letter, stating the Respondent's name, case title, Respondent's complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send a copy of the check and transmittal letter to:

Regional Hearing Clerk, (E-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Ruth McNamara, (SC-5J)
Chemical Emergency Preparedness
and Prevention Section
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Jose C. de Leon (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

29. This civil penalty is not deductible for federal tax purposes.

30. If Respondent does not timely pay the civil penalty U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States enforcement expenses for the collection action. The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

31. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any amount overdue from the date the payment was due at a rate established pursuant to 31 U.S.C. § 3717. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, U.S. EPA will assess a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

32. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the CAFO.

33. This CAFO does not affect the rights of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law.

34. Respondent certifies that that it is complying with Section 103(a) of CERCLA, 42 U.S.C. § 9603(a).

35. This CAFO does not affect Respondent's responsibility to comply with CERCLA and other applicable federal, state and local laws, and regulations.

36. This CAFO is a "final order" for purposes of U.S. EPA's EPCRA/CERCLA Enforcement Response Policy.

37. The terms of this CAFO bind Respondent and its successors and assigns.

38. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

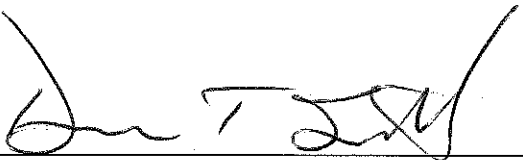
39. Each party agrees to bear its own costs and attorney's fees in this action.

40. This CAFO constitutes the entire agreement between the parties.

In the Matter of: Specialty Heat Treating, Inc.
Docket No. CERCLA-05-2012-0002

Specialty Heat Treating, Inc., Respondent

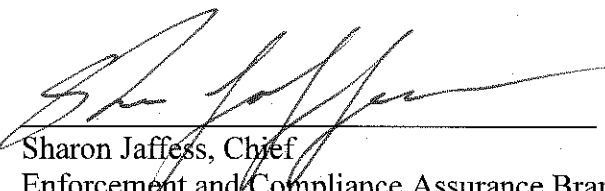
11/16/2011
Date



Dean T. Smith
Chief Executive Officer
Specialty Heat Treating, Inc.

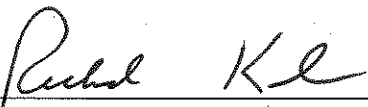
U.S. Environmental Protection Agency, Complainant

12/14/11
Date



Sharon Jaffess, Chief
Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
Region 5

12-15-11
Date



Richard C. Karl, Director
Superfund Division
U.S. Environmental Protection Agency
Region 5

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

12-16-11

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

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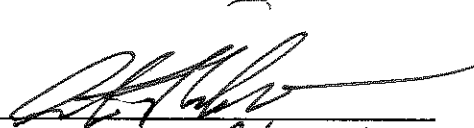
REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Certificate of Service

I, Ruth McNamara, certify that I filed the original and a copy of the Consent Agreement and Final Order (CAFO) with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, delivered a copy of the CAFO by intra-office mail to the Regional Judicial Officer, U.S. Environmental Protection Agency, Region 5, and mailed a second original CAFO by first-class, postage prepaid, certified mail, return receipt requested, to Respondent by placing it in the custody of the United States Postal Service addressed as follows:

Dean T. Smith
Chief Executive Officer
Specialty Heat Treating, Inc.
3700 Eastern Avenue SE
Grand Rapids, Michigan 49508

on the 4th day of January, 2011


~~Ruth McNamara~~ *Anton Filiguer*
U.S. Environmental Protection Agency
Region 5