



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

MAR 31 2009

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Phillip M. Ownbey, President and Chief Operating Officer
Morgan Olson Corporation
1801 South Nottawa Street
Sturgis, Michigan, 49091

Dear Mr. Ownbey:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Morgan Olson Corporation CAA Docket No. CAA-05-2009-0015. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 31 2009.

Pursuant to paragraph 28 of the CAFO, Morgan Olson Corporation must pay the \$64,512 civil penalty within 30 days of the date the CAFO was filed, MAR 31 2009. The check must display the case docket number, CAA-05-2009-0015, and the billing document number, 2750903A016.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel (312) 886-6831.

Sincerely,

A handwritten signature in cursive script that reads "Bonnie Bush".

Bonnie Bush
Chief
Air Enforcement and Compliance Assurance (MI/WI)

Enclosure

cc: Tom Hess, Enforcement Unit Chief
Air Quality Division
Michigan Department of Environmental Quality

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
MAR 31 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:)
)
Morgan Olson Corporation)
Sturgis, Michigan,)
)
Respondent.)
_____)

Docket No. CAA-05-2009-0015
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 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. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5.
3. Respondent is Morgan Olson Corporation (Morgan Olson), a corporation doing business in Michigan.
4. Under 40 C.F.R. § 22.13(b) 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).
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 entry of this CAFO and the assessment of the specified

civil penalty, and agrees to comply with the terms of the 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 the 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. Title V of the Act, 42 U.S.C §§ 7661a-7661f, establishes an operating permit program for certain sources, including “major sources.” Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, U.S. EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. See 57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.

10. Section 502 of the Act, 42 U.S.C. § 7661a(a), and the implementing regulations at 40 C.F.R. § 70.7(b), state that after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate the source except in compliance with its Title V permit.

11. U.S. EPA granted full approval to the Michigan Title V operating permit program on December 4, 2001. See 66 Fed. Reg. 62949. The program became effective on November 30, 2001.

12. Under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred between March 15, 2004 and January 11, 2009, and up to \$37,500 per day of violation up to a total of \$295,000,

for violations that occurred on or after January 12, 2009.

13. Section 113(d)(1), 42 U.S.C. § 7413(d)(1), limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

14. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

15. Morgan Olson owns and operates a facility located at 1801 South Nottawa Road, Sturgis, Michigan (the facility).

16. At the facility, Morgan Olson assembles and paints aluminum truck bodies for step side delivery trucks.

17. At the facility Morgan Olson operates several emission units, including two coating units and a parts coating booth.

18. The Michigan Department of Environmental Quality (MDEQ) issued Renewable Operating Permit (Title V permit) No. MI-ROP-N0879-2007, and Source-Wide Permit to Install No. MI-PTI-N0879-2007, to Morgan Olson with an effective date of May 3, 2007. MDEQ previously issued Renewable Operating Permit No. 199600428, EUP1UBooth Permit to Install No. 54-96, and EUSMLBooth Permit to Install No. 157-82B, to Morgan Olson with an effective date of February 22, 2002, and revision date of August 19, 2003. The current Title V permit has conditions substantially similar to those in the prior permit. All references to specific sections of

the Title V permit in this CAFO refer to the current Title V permit.

19. The two coating units are designated as EUSMLBooth and EUP1UBooth in the Title V permit.

20. The parts coating booth is designated as EUP1Parts1 in the Title V permit.

21. Conditions EUSMLBooth V.1 and EUP1UBooth V.1 of Morgan Olson's Title V permit require random testing of coatings to determine the volatile organic compound (VOC) content of any non-waterborne coating, as applied, using Method 24 or other U.S. EPA approved reference method. This testing is required to be conducted on a yearly basis with all coatings tested within a five year period.

22. Morgan Olson failed to conduct random testing of its coatings at emission units EUSMLBooth and EUP1UBooth, in accordance with Title V permit conditions EUSMLBooth V.1 and ROP EUP1UBooth V.1, respectively.

23. Condition FGRULE 287(c)VI.1 of Morgan Olson's Title V permit requires that records of the volume (in gallons) of coatings used at emission unit EUP1Parts1 be maintained.

24. For a cumulative period of 13 months, Morgan Olson failed to maintain records of the volume of coatings used, in gallons, for emission unit EUP1Parts1, in accordance with Title V permit condition FGRULE287(c)VI.1(a).

25. General Condition 19 of Morgan Olson's Title V permit requires that a responsible official certify to MDEQ and U.S. EPA that the facility is and has been in compliance with all terms and conditions contained in the Title V permit except for deviations that have been, or are being, reported to MDEQ pursuant to Rule 213(3)(c). This certification is to include all information specified in Rule 213(4)(c)(i) through (v) and shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the

certification are true, accurate, and complete.

26. Morgan Olson incorrectly certified compliance with Title V permit conditions EUSMLBooth V.1, ROP EUP1UBooth V.1, and ROP FGRULE287(c) VI.1(a), in accordance with Title V permit General Condition 19.

Civil Penalty

27. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and the facts of this case, Complainant has determined that an appropriate civil penalty to settle this action is \$64,512.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$64,512 civil penalty by electronic funds transfer, payable to the "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York, NY 10045
Field Tag 4200 of the Fedwire message should read:
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state the case name, the docket number of this CAFO and the billing document number.

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

30. If Respondent does not pay timely 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 under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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 overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

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

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

34. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in Paragraph 32, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

35. Respondent certifies that it is complying fully with its Title V permit.

36. This CAFO constitutes an "enforcement response" as that term is used in U.S. EPA's *Clean Air Act Stationary Source Civil Penalty Policy* to determine Respondent's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

37. The terms of this CAFO bind Respondent, 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 attorneys' fees in this action.

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

Morgan Olson Corporation, Respondent

Phillip M. Ownbey

March 18, 2009
Date

Phillip M. Ownbey
kw

Phillip M. Ownbey, President and
Chief Operating Officer
Morgan Olson Corporation

United States Environmental Protection Agency, Complainant

3/26/09
Date

Cheryl Newton

Cheryl Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Morgan Olson Corporation, Sturgis, Michigan

Docket No. CAA-05-2009-0015

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.

3/30/09
Date

Walter W. Vandijk
for
Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

RECEIVED
MAR 31 2009

**REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY**

U.S. ENVIRONMENTAL
PROTECTION AGENCY

MAR 31 2009

OFFICE OF REGIONAL
COUNSEL

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I hand delivered⁴ the original of the Consent Agreement and Final Order, docket number CAA-05-2009-0015 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Morgan Olson Corporation and Morgan Olson Corporation's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Phillip M. Ownbey
President and Chief Operating Officer
Morgan Olson Corporation
1801 South Nottawa Street
Sturgis, Michigan, 49091

and

Thomas Dimond
Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606

I also certify that a copy of the CAFO was sent by first-class mail to:

Tom Hess
Enforcement Unit Chief
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 302
Lansing, Michigan 48909

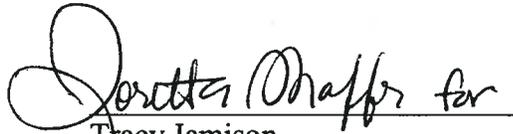
and

Mary Douglas
District Supervisor
Michigan Department of Environmental Quality
Kalamazoo District Office
7953 Adobe Road
Kalamazoo, Michigan 49009-5026

RECEIVED
MAR 31 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

on the 31 day of March 2009.


Tracy Jamison
Office Automation Clerk
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0186 0392