



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

APR 08 2009

REPLY TO THE ATTENTION OF:
WC-15J

CERTIFIED MAIL – 7001 0320 0006 0292 5380
RETURN RECEIPT REQUESTED

Mr. Lance Robinson, President
Micro Industries, Inc.
200 West Second Street
Rock Falls, IL 61071

Re: Docket No: CWA-05-2009-0003
BD # **2750943W003**

Dear Mr. Robinson:

I have enclosed one copy of the fully executed Consent Agreement and Final Order (CAFO) in the resolution of the above case. It was filed APR 08 2009 with the Acting Regional Hearing Clerk.

The penalty amount agreed upon is \$1,500 which is due 30 days after the effective date of this CAFO. A Certified or Cashier Check should be made payable to the "Treasurer, United States of America," at the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

When submitting your check, **please be sure that the Case Docket No. and the Billing Docket No. (BD) is included at the bottom of your check.**

There is now an **On Line Payment Option** available through the Department of Treasury at <https://www.pay.gov>; which allows you to make payments using your credit card, checking or saving account. Using the Search Public Forms field (left side of page) enter "SFO 1.1" to access the EPA Miscellaneous Payments-Cincinnati Finance Center Form. Follow the instructions for payment.

As indicated in your CAFO a copy of the check or electronic transfer must be sent to:

Ms. Twanna Greene (R-19J)
Acting Regional Hearing Clerk
U.S. EPA
77 W. Jackson Blvd.
Chicago, IL 60604

Newton Ellens (WC-15J)
Environmental Engineer
U.S. EPA
77 W. Jackson Blvd.
Chicago, IL 60604

Robert Guenther (C-14J)
Associate Regional Counsel
U.S. EPA
77 West Jackson Blvd
Chicago, IL 60604

If you have any questions, please contact Newton Ellens, at (312) 353-5562.

Sincerely yours,



Sally K. Swanson, Chief
Water Enforcement and Compliance Assurance Branch

Enclosure

cc: Ken Rogers, IEPA

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED

FEB - 6 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

IN THE MATTER OF:)	CWA-05-2009-0003
)	
MICRO INDUSTRIES, INC.,)	Proceeding to Assess a
ROCK FALLS, ILLINOIS,)	Class II Civil Penalty
)	Pursuant to Section
RESPONDENT.)	309(g) of the Clean
)	Water Act, 33 U.S.C.
)	§ 1319(g)
)	

CONSENT AGREEMENT AND FINAL ORDER

Preliminary Statement

1. This is an administrative action commenced and concluded under section 309(g) of the Clean Water Act (CWA), 33 U.S.C. § 1319(g), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/ Termination or Suspension of Permits* (the Consolidated Rules), codified at 40 C.F.R. part 22.

2. Complainant is the Director of the Water Division, United States Environmental Protection Agency (EPA), Region 5.

3. Respondent is Micro Industries, Inc., the owner and operator of a manufacturing facility located at 200 West Second Street, Rock Falls, Illinois.

4. Federal regulations, at 40 C.F.R. § 22.13(b), provide that where the parties agree to settle one or more causes of action before the filing of a complaint, an 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 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.

Regulatory and Factual Background

9. Section 309(g) of the CWA, 33 U.S.C. § 1319(g), states that: "Whenever, on the basis of any information available the Administrator finds that any person has violated [section 307 of the CWA, 33 U.S.C. § 1317], ... the Administrator ... may, after consultation with the State in which the violation occurs, assess a ... class II civil penalty under [section 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B)]."

10. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), states that: "After the effective date of any ... pretreatment standard

promulgated under this section, it shall be unlawful for any owner or operator of any source to operate any source in violation of any such ... pretreatment standard."

11. Section 307(b) of the CWA, 33 U.S.C. § 1317(b), states: "The Administrator shall ... publish proposed regulations establishing pretreatment standards for introduction of pollutants into treatment works which are publicly owned for those pollutants which are determined not to be susceptible to treatment by such treatment works or which would interfere with the operation of such treatment works. ..."

12. Pursuant to section 307(b) of the CWA, 33 U.S.C. § 1317(b), the Administrator published the "General Pretreatment Regulations for Existing and New Sources" on January 28, 1981, codified at 40 C.F.R. part 403. By the terms of the regulation, the requirements of part 403 became effective three years from the date of promulgation. These standards include general prohibitions, specific prohibitions and local limits.

13. Federal regulations, at 40 C.F.R. § 403.12(e)(1), require any industrial user with processes regulated by a categorical pretreatment standard to submit a report to the Control Authority every six months indicating the nature and concentration of pollutants regulated by that categorical pretreatment standard, as well as associated flow data.

14. Pursuant to section 307(b) of the CWA, 33 U.S.C.

§ 1317(b), the Administrator published the "Metal Finishing Point Source Category," on July 15, 1983, codified at 40 C.F.R. part 433. By the terms of the regulation, the requirements of part 403 became effective three years from the date of promulgation.

15. The Metal Finishing Point Source Category, at 40 C.F.R. § 433.17(a), prohibits any source which began discharging subsequent to the promulgation of the category from discharging wastewater with concentrations of zinc ("Zn") in excess of 2.61 milligrams per liter ("mg/l") in a given day, or an average of 1.48 mg/l in a given month.

16. Micro Industries, Inc., is a corporation and is thus a "person" within the meaning of section 502(5) of the CWA, 33 U.S.C. § 1362(5).

17. Among the operations at its Rock Falls facility, Respondent is engaged in the manufacture of products made through precision zinc die casting, and includes coating operations as well as machining and polishing operations. Specifically, Respondent's processes include a process to smooth, or de-burr, its Zn products by subjecting them to intense vibration. Respondent began operating this process after July 15, 1986.

18. The State of Illinois has not submitted to U.S. EPA an approvable package under 40 C.F.R. § 403.10 to allow Illinois to

approve pretreatment programs submitted by POTWs pursuant to 40 C.F.R. § 403.8. Consequently, according to 40 C.F.R. § 403.3(c), U.S. EPA Region 5 is the "approval authority" for POTW pretreatment programs in the State of Illinois.

19. The Rock Falls POTW has not submitted an approvable pretreatment program to U.S. EPA Region 5 pursuant to 40 C.F.R. § 403.8. Consequently, U.S. EPA Region 5 is the Control Authority for the Rock Falls POTW pursuant to 40 C.F.R. § 403.12(a).

20. Respondent's facility is a source of "indirect discharge" and an "industrial user" ("IU") or "user" as those terms are defined in 40 C.F.R. § 403.3.

21. The discharges from the vibratory deburring process contain Zn. Zn is a pollutant, as that term is defined at 33 U.S.C. § 1362(6), and a toxic water pollutant according to 40 C.F.R. § 401.15.

22. The wastewater discharges from Respondent's vibratory deburring process are subject to the National Pretreatment Standards under 40 C.F.R. part 403, and the Metal Finishing Point Source Category, found at 40 C.F.R. part 433, specifically the pretreatment standards for new sources found at 40 C.F.R. § 433.17.

COUNT I
VIOLATION OF DAILY MAXIMUM CATEGORICAL LIMITS
40 C.F.R. § 433.17

23. Paragraphs 1-22 are realleged as if restated here in full.

24. Respondent discharged effluent from its vibratory deburring process into the Rock Falls POTW during the days listed and possessing the characteristics specified in Table A to this CAFO.

25. Respondent's discharges from the vibratory deburring process to the Rock Falls POTW on the days listed in Table A to this CAFO exceeded the applicable daily maximum concentration limits for Zn contained in 40 C.F.R. § 433.17.

26. Respondent's exceedances of the daily maximum concentration limits for Zn imposed by 40 C.F.R. § 433.17 constitute violations of a pretreatment standard and are consequently violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d).

27. According to 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. part 19, Respondent's violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d), subject Respondent to civil penalties not to exceed \$11,000 per day of violation and a maximum of \$157,500.

COUNT II

VIOLATION OF MONTHLY AVERAGE CATEGORICAL LIMITS
40 C.F.R. § 433.17

28. Paragraphs 1-22 are realleged as if restated here in full.

29. Respondent discharged effluent from its vibratory deburring process into the Rock Falls POTW during the months listed and possessing the characteristics specified in Table B to this CAFO.

30. Respondent's discharges from its vibratory deburring process to the Rock Falls POTW during the months listed in Table B to this CAFO exceeded the applicable monthly average concentration limits for Zn contained in 40 C.F.R. § 433.17.

31. Respondent's exceedances of the monthly average concentration limits for Zn imposed by 40 C.F.R. § 433.17 for the vibratory deburring process constitute violations of a pretreatment standard and are consequently violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d).

32. According to 309(g)(2)(B) of the CWA, 33 U.S.C. § 1319(g)(2)(B), and 40 C.F.R. part 19, Respondent's violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d), subject Respondent to civil penalties not to exceed \$11,000 per day of violation and a maximum of \$157,500.

COUNT III

VIOLATION OF SEMI-ANNUAL REPORTING REQUIREMENTS
40 C.F.R. § 403.12(e) (1)

33. Paragraphs 1-22 are realleged as if restated here in full.

34. Respondent did not submit to U.S. EPA (as Control Authority) any reports describing the nature and concentration of pollutants contained in its effluent regulated by 40 C.F.R. part 433, or any flow data, during the years 2004, 2005, 2006, or 2007, as required by 40 C.F.R. § 403.12(e) (1).

35. Respondent's failure to submit reports to the Control Authority describing the nature and concentration of pollutants contained in its effluent regulated by 40 C.F.R. part 433, or any flow data, during the months of June and December of the years 2004, 2005, 2006, or 2007, violated 40 C.F.R. § 403.12(e) (1).

36. Respondent's violations of reporting requirements in 40 C.F.R. § 403.12(e) (1) constitute violations of a pretreatment standard and are consequently violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d).

37. According to 309(g) (2) (B) of the CWA, 33 U.S.C. § 1319(g) (2) (B), and 40 C.F.R. part 19, Respondent's violations of section 307(d) of the CWA, 33 U.S.C. § 1317(d), subject

Respondent to civil penalties not to exceed \$11,000 per day of violation and a maximum of \$157,500.

Civil Penalty

38. Pursuant to section 309(g)(3) of the CWA, 33 U.S.C. § 1319(g)(3), Complainant determined that an appropriate civil penalty to settle this action is **\$1,500**. In determining the penalty amount, Complainant considered the nature, circumstances, extent and gravity of the violations, and, with respect to Respondent, ability to pay, history of violations, degree of culpability, economic benefit resulting from the violations and any other factors justice may require. In particular, Complainant considered financial information submitted by Respondent in response to correspondence relating EPA's intent to file an administrative complaint in this matter, and that information demonstrated Respondent's significantly limited ability to pay any penalty to resolve the violations.

39. Within 30 days after the effective date of this CAFO, Respondent must pay the **\$1,500** civil penalty for the CWA violations by sending a cashier's or certified check, payable to the "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

The check must state the docket number of this CAFO, and any

assigned billing document number, discussed below.

40. Respondent should accompany the payment with a transmittal letter stating Respondent's name, complete address, the case docket number and any assigned billing document (BD) number. Respondent should write the case docket number and the BD number on the face of the check. The BD number may be found on the cover letter transmitting this CAFO. Respondent must send copies of the check and transmittal letter to:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Newton Ellens (WE-15J)
Water Enforcement and Compliance Branch
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

Robert Guenther (C-14J)
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604

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

42. If Respondent does not timely pay the civil penalty, EPA may refer this matter to the Attorney General who will recover such amount, plus interest, in the appropriate district court of the United States under section 309(g)(9) of the CWA, 33 U.S.C. § 1319(g)(4). The validity, amount and

appropriateness of the civil penalty are not reviewable in a collection action.

43. 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, Respondent must pay a 6 percent per year penalty on any principal amount 90 days past due.

General Provisions

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

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

46. This CAFO does not affect Respondent's responsibility to comply with the Clean Water Act, the pretreatment standards promulgated thereunder or any other applicable federal, state, and local laws.

47. Respondent certifies that it is complying with the Clean Water Act and the pretreatment standards promulgated thereunder.

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

49. Each person signing this 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.

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

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

52. According to section 309(g)(5) of the CWA, 33 U.S.C. § 1319(g)(5), this Consent Agreement will become effective 30 days after filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. No person responded to the public notice of the commencement of this action pursuant to section 309(g)(4)(A) of the CWA, 33 U.S.C. § 1319(g)(4)(A); consequently, it is not necessary to notify any interested persons of the issuance of the Final Order in this matter pursuant to section 309(g)(9)(C) of the CWA, 33 U.S.C. § 1319(g)(9)(C). The Final Order, once effective, is a final order for the purposes of future enforcement.

Micro Industries, Inc., Respondent
CWA-05-2009-0003

1-15-09
Date

Lance R Robinson
Lance R Robinson
President

United States Environmental Protection Agency, Complainant

2-2-09
Date

Tinka G. Hyde
Tinka G. Hyde, Director
Water Division, Region 5

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FEB - 6 2009

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

In the Matter of:
Micro Industries, Inc.,
Rock Falls, Illinois
Docket No. CWA-05-2009-0003

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APR 08 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY.

FINAL ORDER

I approve the preceding Consent Agreement and incorporate it by reference into this Final Order. I order Micro Industries, Inc., Rock Falls, Illinois, to comply with the terms of the preceding Consent Agreement, effective 30 days after the filing of this Final Order with the Regional Hearing Clerk.

3/30/09
Date

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

TABLE A

Violations of Daily Effluent Limits Found at 40 C.F.R. § 433.17

Sample Date	Pollutant	Sample Result (mg/L)	Applicable Daily Limit (mg/L)	Percent Exceedance
1/8/08	Zn	68.2	2.61	2510
2/8/08	Zn	18.3	2.61	601
3/10/08	Zn	49.9	2.61	1810
4/7/08	Zn	33.4	2.61	1180
4/17/08	Zn	61.1	2.61	2240
5/7/08	Zn	5.81	2.61	123

TABLE B

Violations of Monthly Average Effluent Limits Found at 40 C.F.R. § 433.17

Sample Date	Pollutant	Monthly Average of Sample Results (mg/L)	Applicable Monthly Average Limit (mg/L)	Percent Exceedance
1/8/08	Zn	68.2	1.48	4510
2/8/08	Zn	18.3	1.48	1140
3/10/08	Zn	49.9	1.48	3270
4/7/08	Zn	47.3	1.48	3100
4/17/08	Zn		1.48	
5/7/08	Zn	5.81	1.48	293

U.S. ENVIRONMENTAL
PROTECTION AGENCY

JAN 29 2009

OFFICE OF REGIONAL
COUNSEL

Facility Name: Micro Industries, Inc.
Rock Falls, IL

Docket No: CWA-05-2009-0003

1

CERTIFICATE OF SERVICE

I hereby certify that the original and one copy of this Administrative Complaint was filed with the Acting Regional Hearing Clerk on 4/8/2009. The above referenced document was sent Certified Mail to:

CERTIFIED MAIL 7001 0320 0006 0292 5380
RETURN RECEIPT REQUESTED

Mr. Lance Robinson, President
Micro Industries, Inc.
200 West Second Street
Rock Falls, IL 61071

CERTIFIED MAIL 7000 0520 0020 1092 8938
RETURN RECEIPT REQUESTED

Mr. Ken Rogers, Chief
Compliance Assurance Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62794-9276

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APR 08 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Denise Moore Denise Moore
Title: Program Assistant
Date: APR 08 2009