

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 7
901 NORTH FIFTH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)
)
Spirit AeroSystems, Inc.) CONSENT AGREEMENT
3810 S. Oliver) AND FINAL ORDER
Wichita, Kansas 67210)
)
EPA ID Number: KSR000503961) Docket No. RCRA-07-2009-0012
)
Respondent)
)
Proceeding under Section 3008 (a) and (g) of)
the Resource Conservation and Recovery Act)
as amended, 42 U.S.C. § 6928(a) and (g).)
_____)

CONSENT AGREEMENT AND FINAL ORDER

This proceeding for the assessment of civil penalties was initiated on or about December 23, 2009, pursuant to Section 3008(a) and (g) of the Resource Conservation and Recovery Act ("RCRA"), when the United States Environmental Protection Agency (Complainant or EPA) issued to the Spirit AeroSystems, Inc., Wichita, Kansas, (Respondent) an Amended Complaint, Compliance Order and Notice of Opportunity for Hearing ("Amended Complaint").

The Amended Complaint charged Respondent with violations of Section 3005 of RCRA, 42 U.S.C. § 6925, and the regulations found at 40 C.F.R. Parts 261, 262 and 265.

The Amended Complaint proposed a penalty of Two Hundred and Forty Thousand One Hundred and Sixty-Seven Dollars (\$240,167) for these violations. The Complainant and Respondent subsequently entered into negotiations in an attempt to settle the allegations in the Amended Complaint.

This Consent Agreement and Final Order (CAFO) is a result of the above negotiations and resolves the administrative claims arising from the RCRA violations alleged in the Amended Complaint.

CONSENT AGREEMENT

1. Respondent and EPA agree to the terms of this CAFO and Respondent agrees to comply with the terms of the Final Order portion of this CAFO.
2. Respondent admits the jurisdictional allegations of this CAFO and agrees not to contest EPA's jurisdiction in this proceeding or any subsequent proceeding to enforce the terms of the Final Order portion of this CAFO set forth below.
3. Respondent neither admits nor denies the factual allegations and legal conclusions set forth in the Amended Complaint or in this CAFO.
4. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth above, and its right to appeal the proposed Final Order portion of the CAFO.
5. Respondent and Complainant agree to conciliate the matters set forth in this CAFO without the necessity of a formal hearing and to bear their respective costs and attorney's fees.
6. This CAFO addresses all civil administrative claims for the RCRA violations identified in the Amended Complaint and the compliance actions specified in Paragraphs 61 through 66 of the Amended Complaint. Complainant reserves the right to take any enforcement action with respect to any other violations of RCRA or any other applicable law.
7. Nothing contained in the Final Order portion of this CAFO shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.
8. Respondent certifies that by signing this CAFO that to best of its knowledge, Respondent's facility is in compliance with all requirements of RCRA, 42 U.S.C. § 6901 *et. seq.* and all regulations promulgated thereunder.
9. The effect of settlement described in Paragraph 6 above is conditioned upon the accuracy of Respondent's representations to EPA, as memorialized in Paragraph 8, above, of this CAFO.
10. The undersigned representative of Respondent certifies that he or she is fully authorized to enter the terms and conditions of this CAFO and to execute and legally bind Respondent to it.
11. Respondent agrees that, in settlement of the claims alleged in this CAFO, Respondent shall pay a penalty of \$132,500 as set forth in Paragraph 1 of the Final Order.
12. Respondent understands that failure to pay any portion of the civil penalty on the date the same is due may result in the commencement of a civil action in Federal District Court to collect said penalty, along with interest thereon at the applicable statutory rate.
13. This CAFO shall be effective upon entry of the Final Order by the Regional Judicial Officer for EPA Region VII. Unless otherwise stated, time periods stated herein shall be

calculated in calendar days from such date.

14. This CAFO shall remain in full force and effect until all requirements stated in Final Order hereunder have been satisfied.

FINAL ORDER

Pursuant to the authority of Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and according to the terms of this CAFO, IT IS HEREBY ORDERED THAT:

A. Payment of Civil Penalty

1. Within thirty (30) days of the effective date of this Order, Respondent shall pay a civil penalty of \$132,500.
2. Payment of the penalty shall be by cashier or certified check made payable to "Treasurer of the United States" and remitted to:

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

The Respondent shall reference the Docket Number, RCRA-07-2009-0012, on the check. A copy of the check shall also be mailed to:

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101

and

Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII
901 N. 5th Street
Kansas City, Kansas 66101.

3. No portion of the civil penalty or interest paid by Respondent pursuant to the requirements of this CAFO shall be claimed by Respondent as a deduction for federal, state, or local income tax purposes.

B. Parties Bound

4. This Final Order portion of this CAFO shall apply to and be binding upon Complainant and Respondent and Respondent's agents, successors and/or assigns. Respondent shall ensure that all contractors, employees, consultants, firms or other persons or entities acting for Respondent with respect to matters included herein comply with the terms of this CAFO.

C. Reservation of Rights

5. Notwithstanding any other provision of this CAFO, EPA reserves the right to enforce the terms of the Final Order portion of this CAFO by initiating a judicial or administrative action under Section 3008 of RCRA, 42 U.S.C. § 6928, and to seek penalties against Respondent in an amount not to exceed thirty-seven thousand five hundred dollars (\$37,500) per day per violation pursuant to Section 3008(c) of RCRA, for each day of non-compliance with the terms of the Final Order, or to seek any other remedy allowed by law.

6. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and its implementing regulations and to enforce the terms and conditions of this CAFO.

7. Complainant reserves the right to pursue future closure and/or cleanup actions at Respondent's facility pursuant to its authority under RCRA or the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA").

8. Except as expressly provided herein, nothing in this CAFO shall constitute or be construed as a release from any claim (civil or criminal), cause of action, or demand in law or equity by or against any person, firm, partnership, entity or corporation for any liability it may have arising out of or relating in any way to the generation, storage, treatment, handling, transportation, release or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants or contaminants found at, taken to, or taken from Respondent's facility.

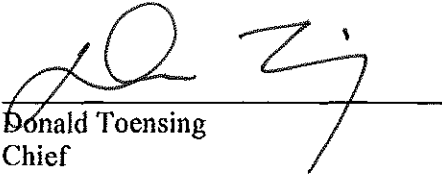
9. Notwithstanding any other provisions of the CAFO, an investigation and/or an enforcement action may be brought pursuant to Sections 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should EPA find that the future handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's facility may present an imminent and substantial endangerment to human health and the environment.

10. The headings in this CAFO are for convenience of reference only and shall not affect interpretation of this CAFO.

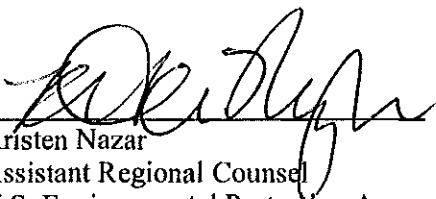
COMPLAINANT:

U.S. ENVIRONMENTAL PROTECTION AGENCY

7-12-10
Date


Donald Toensing
Chief
RCRA Enforcement and State Programs Branch
Air and Waste Management Division
U.S. Environmental Protection Agency
Region VII

7/12/10
Date


Kristen Nazar
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region VII

RESPONDENT:

SPIRIT AEROSYSTEMS, INC.

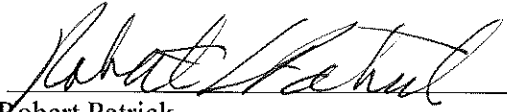
7-7-2010
Date

Signature T.J. Wawzylo

Name Tod J. Wawzylo

Title V.P. Quality, EH & S & Tooling

IT IS SO ORDERED. This Final Order shall become effective immediately.



Robert Patrick
Regional Judicial Officer

Date July 12, 2010

IN THE MATTER OF Spirit AeroSystems, Inc., Respondent
Docket No. RCRA-07-2009-0012

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Consent Agreement and Final Order was sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kristen Nazar
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail Return Receipt to:

Foulston Siefkin LLP
United States of America
Commerce Bank Center
1551 N. Waterfront Parkway, #100
Wichita, Kansas 67206

Copy by Facsimile and
First Class Pouch Mail to:

The Honorable Susan L. Biro
Chief Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

and

The Honorable Spencer Nissen
Administrative Law Judge
U. S. Environmental Protection Agency
Office of Administrative Law Judges
1200 Pennsylvania Avenue, NW
Mail Code 1900L
Washington, D. C. 20005

Dated: 7/13/10



Kathy Robinson
Hearing Clerk, Region 7