



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

NOV 13 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

John R. Tankovich, President
Diamond Hard Chrome Co. Inc.
6110 Grand Avenue
Cleveland, Ohio 44104

Dear Mr. Tankovich:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves case docket no. CAA-05-2015-0008. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on NOV 13 2014.

Please direct any questions regarding this case to Michael Berman.

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens
Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Michael Berman/C-14J
Robert Hodanbosi, Ohio Environmental Protection Agency
George Baker, Department of Public Health, Division of Air Quality, Cleveland, Ohio

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No.	CAA-05-2015-0008
)		
Diamond Hard Chrome Co. Inc.)	Proceeding to Assess a Civil Penalty	
Cleveland, Ohio)	Under Section 113(d) of the Clean Air Act,	
)	42 U.S.C. § 7413(d)	
)		
Respondent.)		
_____)		



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 CAA), 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 in the U.S. Code of Federal Regulations (C.F.R.) at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is Diamond Hard Chrome Co. Inc. (DHC) a corporation doing business in Ohio.
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 any right to appeal this CAFO.

Statutory and Regulatory Background

9. Section 112(b) of the CAA, 42 U.S.C. § 7412(b), provides a list of hazardous air pollutants developed by Congress and modified in accordance with the CAA.

10. Section 112(c)(1) of the CAA, 42 U.S.C. § 7412(c)(1), requires the Administrator to publish, and from time to time revise, if appropriate, a list of all source categories and subcategories of major sources and area sources of the air pollutants listed pursuant to Section 112(b).

11. Section 112(c)(2) of the CAA, 42 U.S.C. § 7412(c)(2), requires the Administrator establish emissions standards in accordance with Section 112(d) for the categories and subcategories the Administrator lists.

12. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), requires the Administrator to promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation.

13. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), also identifies the minimum requirements under which the Administrator is to develop and promulgate such regulations.

14. The Administrator published an initial list of categories and subcategories of major sources and area sources in accordance with Section 112 of the CAA, 42 U.S.C. § 7412, on July 16, 1992. 57 Fed. Reg. 31576-31592.

15. The initial list of categories and subcategories includes hard chromium electroplating. 57 Fed. Reg. 31592.

16. The Administrator published the General Provisions of 40 C.F.R. Part 63 on December 29, 1992, as amended. 59 Fed. Reg. 61992 (codified at 40 C.F.R. Part 63, Subpart A).

17. 40 C.F.R. § 63.1(a)(2) of the General Provisions states this part contains national emission standards for hazardous air pollutants (NESHAP) established pursuant to section 112 of the CAA. These standards regulate specific categories of stationary sources that emit (or have the potential to emit) one or more hazardous air pollutants listed in this part pursuant to section 112(b) of the CAA.

18. The General Provisions of 40 C.F.R. Part 63 establish requirements for owners or operators of stationary sources and area sources subject to a NESHAP listed in 40 C.F.R. Part 63. The definitions section of the General Provisions define, among other things, area source as “any stationary source of hazardous air pollutants that is not a major source as defined in this part”. Owners and operators of stationary sources subject to a NESHAP listed in 40 C.F.R. Part 63 are required to, among other things:

- a. Conduct initial performance testing within 180 days of the compliance date of an applicable NESHAP. 40 C.F.R. § 63.7(A)(2).
- b. Submit an initial notification of performance testing no later than 60 calendar days after the effective date of the relevant standard. 40 C.F.R. § 63.7(b)(1)

- c. Performance testing must be conducted under conditions the Administrator specifies to the owner or operator based on representative performance (i.e. performance based on normal operating conditions) of the affected source.

40 C.F.R. § 63.7 (e)(1).

- d. Submit initial and periodic notifications of compliance status reports. 40 C.F.R. § 63.9(b) and (h).

19. The Administrator promulgated, in accordance with the requirements of section 112 of the CAA, the National Emission Standards for Chromium Emissions from Hard Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 C.F.R. Part 63, Subpart N) on January 25, 1995. 60 Fed. Reg. 4963.

20. 40 C.F.R. § 63.340(a) states the affected source to which the provisions of this subpart apply is each chromium electroplating or chromium anodizing tank at facilities performing hard chromium electroplating, decorative chromium electroplating, or chromium anodizing.

21. 40 C.F.R. § 63.340(b) states owners or operators of affected sources subject to the provisions of this subpart must also comply with the requirements of subpart A of this part.

22. 40 C.F.R. Part 63, Subpart N imposes the following requirements, among others, on affected sources subject to this regulation.

- a. *Standards for open surface hard chromium electroplating tanks:* Requires, during tank operation, each owner or operator shall control chromium emissions discharged to the atmosphere from each affected source by not allowing the concentration of total chromium in the exhaust gas stream discharged to the

atmosphere to exceed 0.011¹ milligrams of total chromium per dry standard cubic meter (mg/dscm) of ventilation air. 40 C.F.R. § 63.342(c)(1)(i).

- b. Operation and maintenance practices:* Requires all owners or operators subject to this standard to, at all times, including periods of startup, shutdown, and malfunction, operate and maintain any affected source, including associated air pollution control devices and monitoring equipment, in a manner consistent with good air pollution control practices. 40 C.F.R. § 63.342(f)(1)(i).
- c. Compliance dates:* Requires the owner or operator of an existing affected source to comply with the applicable emission limit at 40 C.F.R. § 63.342 no later than 2 years after January 25, 1995, if the affected source is a hard chromium electroplating tank or chromium anodizing tank. 40 C.F.R. § 63.343(a)(1)(ii).
- d. Methods to demonstrate initial compliance:* Requires an owner or operator of an affected source to conduct an initial performance test as required under 40 C.F.R. 63.7. 40 C.F.R. § 63.343(b)(1).
- e. Monitoring to demonstrate continuous compliance:* Requires the owner or operator of an affected source complying with applicable emission limits through the use of a composite mesh pad system to establish a site-specific operating parameter for pressure drop across the system. This parameter must be determined during the initial performance testing and is set based on the value that corresponds to compliance with the applicable emission limitation. 40 C.F.R. 63.343(c)(1)(i).

¹ The residual risk rule promulgated September 19, 2012 (77 Fed. Reg. 5824) revised this emission limit downward, from 0.015 mg/dscm to 0.011 mg/dscm for all open surface hard chromium electroplating tanks that are existing affected facilities and are located at large hard chromium electroplating facilities. The more stringent 0.011 mg/dscm limit becomes effective September 19, 2014.

- f. Monitoring to demonstrate continuous compliance:* Requires the owner or operator to monitor and record the pressure drop across the composite mesh-pad system once each day that any affected source is operating. The composite mesh-pad system must be operated within ± 2 inches of water column of the pressure drop value established during the initial performance test or within the range of compliant values for pressure drop established during multiple performance tests. 40 C.F.R. 63.343(c)(1)(ii).
- g. Packed-bed scrubber/composite mesh-pad system:* States the owner or operator of an affected source that uses a packed-bed scrubber in conjunction with a composite mesh-pad system to meet applicable emission limits shall comply with the monitoring requirements for composite mesh-pad systems.
40 C.F.R. § 63.343(c)(3).
- h. Performance test requirements:* Requires performance testing be conducted using the test methods and procedures in this section and 40 C.F.R. § 63.7.
40 C.F.R. § 63.344(a).
- i. Recordkeeping requirements:* Requires the owner or operator of an affected source to maintain records of all monitoring data required by 40 C.F.R. § 63.343(c) that are used to demonstrate compliance with the applicable standard including the date and time the data are collected. 40 C.F.R. § 63.346(b)(8).
- Reporting requirements:* Requires the owner or operator of each affected source that has an initial startup before January 25, 1995 to notify the Administrator in writing that the source is subject to this subpart no later than 180 calendar days after January 25, 1995. 40 C.F.R. § 63.347(c)(1).

j. Reporting requirements: Requires a notification of compliance status each time an affected source becomes subject to the requirements of this subpart which includes, among other things, each monitored parameter for which a compliance value is to be established under 40 C.F.R. § 63.343(c) and the specific operating parameter value, or range of values, that corresponds to compliance with the applicable emission limit. 40 C.F.R. § 63.347(e)(1-3) .

k. Reporting requirements: Requires the owner or operator of each affected source to report to the Administrator the results of any performance test conducted in accordance with 40 C.F.R. § 63.7 and § 63.343(b). The reports of the performance test results must be submitted as part of the notification of compliance status report no later than 90 days following completion of the performance test. 40 C.F.R. § 63.347(f)(1-2).

23. Title I, Section 112 (i)(3)(A) states that after the effective date of any emissions standard, limitation or regulation promulgated under this section and applicable to a source, no person may operate such source in violation of such standard, limitation or regulation except, in the case of an existing source, the Administrator shall establish a compliance date or dates for each category or subcategory of existing sources, which shall provide for compliance as expeditiously as practicable, but in no event later than 3 years after the effective date of such standard. 42 U.S.C. § 7412(i)(3)(A).

24. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), states whenever, on the basis of any information available to the Administrator of EPA, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of this subchapter, the Administrator may issue a penalty order in accordance with subsection (d). This authority has

been delegated to the Regional Administrator. EPA Delegation 7-6-A, 8/9/94; Region 5 Delegation 7-6-A, 2/4/00.

25. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 through December 6, 2013 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

26. Section 113(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.

27. 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

28. Respondent owns and operates a hard chromium electroplating facility at 6110 Grand Avenue in Cleveland, Ohio (Facility).

29. The Facility is a stationary source as defined in the CAA and 40 C.F.R. § 63.2.

30. The Facility includes seven open top hard chromium electroplating tanks and one portable tank with porous pots which are affected sources as defined at 40 C.F.R. § 63.340(a).

31. The affected sources at the Facility started up before January 25, 1995.

32. The maximum cumulative potential rectifier capacity of the affected sources is greater than 60 million ampere-hours per year.

33. The Facility is a large, hard chromium electroplating facility as defined at 40 C.F.R. § 63.341(a).

34. The affected sources are designated Tank 1, Tank 2, Tank 3, Tank 4, Tank 5, Tank 6, Tank 7, and a portable hard chromium electroplating tank with pourous pots (portable tank) associated with plating a particular product called “Mining Screens”.

35. The affected sources use a composite mesh pad system and packed scrubbers to control chromium emissions.

36. Each affected source has a dedicated composite mesh pad system.

37. Tanks 1 – 3, after the composite mesh pad system, vent into a common plenum followed by a single, dedicated packed scrubber labeled Scrubber #1.

38. Tanks 4-6, after the composite mesh pad system, vent into a common plenum followed by a single, dedicated packed scrubber labeled Scrubber #2.

39. Tank 7, after the four composite mesh pad systems, vents into a dedicated stack [Stack #3, referred to in the performance testing as “Scrubber #3 Outlet]. Emissions from the portable tank, when used, are vented through a 5 inch pipe to either the Tank 6 or Tank 7 ventilation system to control emissions.

40. Performance testing for hexavalent chromium and total chromium emissions from the #1, #2 and #3 scrubber outlets was conducted at the Facility from May 9 - 11, 2012.

41. The performance test report for the May, 2012 test showed the following results:

- a. Emissions from Scrubber #1 exceeded 0.015 mg/dscm for both hexavalent chromium and total chromium emissions.
- b. Emissions from Scrubber #2 exceeded 0.015 mg/dscm for total chromium emissions.

- c. Emissions from Scrubber #3 exceeded 0.015 mg/dscm for total chromium emissions.

42. The performance test report for the May, 2012 test includes the following process information:

- a. Tank 1 (5,500 amperes)
- b. Tank 2 (15,000 amperes)
- c. Tank 3 (5,500 amperes)
- d. Tank 4 (5,500 amperes)
- e. Tank 5 (5,500 amperes)
- f. Tank 6 (10,000 amperes)
- g. Tank 7 (10,500 amperes)

43. Performance testing for hexavalent chromium and total chromium emissions from the #1 scrubber outlet was conducted at the Facility from August 14 - 15, 2012.

44. The performance test report for the August, 2012 test showed emissions from Scrubber #1 were below 0.015 mg/dscm for both hexavalent chromium and total chromium (0.00982 mg/dscm for hexavalent chromium, and 0.01084 mg/dscm for total chromium).

45. The performance test report for the August, 2012 test included the following process information:

- a. Tank 1 (5,500 amperes)
- b. Tank 2 (14,000 to 15,000 amperes)
- c. Tank 3 (5,400 amperes to 5,800 amperes)

46. Respondent submitted a letter on April 7, 2011, in response to a 114 information request, which provided information on the maximum electrical capacity of each tank in amp-

hours. The letter includes a description of how the maximum electrical capacity was calculated (total rectifier capacity (amperes) multiplied by 8,400 hours/year, multiplied by 0.7).

47. The current maximum amperages for each chromium electroplating tank at Diamond Hard Chrome are:

- a. Tank 1 (10,000 amperes)
- b. Tank 2 (15,000 amperes)
- c. Tank 3 (7,500 amperes)
- d. Tank 4 (7,500 amperes)
- e. Tank 5 (7,500 amperes)
- f. Tank 6 (15,000 amperes)
- g. Tank 7 (2 X 10,000 amperes)
- h. Portable Tank (800 amperes)

48. Respondent submitted an initial notification report to EPA on April 7, 2011.

49. Respondent submitted an annual compliance report to EPA on April 7, 2011.

50. Respondent monitors pressure drop across its packed bed scrubbers.

51. Respondent maintains records of pressure drop across its packed bed scrubbers.

52. Respondent violated the National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (40 C.F.R. Part 63, Subpart N) as follows:

- a. Respondent failed to conduct initial performance testing under representative operating conditions (*i.e.*, the maximum permitted design rates), to demonstrate compliance as required at 40 C.F.R. § 63.7 and 63.344(a).
- b. Respondent failed to demonstrate compliance with the 0.015 mg/dscm emission

limit for open surface hard chromium electroplating tanks as required at 40 C.F.R. § 63.342(c)(1).

- c. Respondent failed to monitor pressure drop across the system (*i.e.* across the mesh pads and scrubbers) as required at 40 C.F.R. § 63.343(c)(3).
- d. Respondent failed to maintain records of pressure drop across the system as required at 40 C.F.R. § 63.346(b)(8).
- e. Respondent failed to submit an initial notification report within 180 days after January 25, 1995 as required at 40 C.F.R. § 63.347(c)(1).

53. EPA issued a Finding of Violation to Respondent on June 10, 2011.

Civil Penalty

54. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the Clean Air Act Stationary Source Civil Penalty Policy, the economic impact of the penalty on Diamond Hard Chrome's business, the facts of this case, and Respondent's cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$1,000.

55. Within 30 days after the effective date of this CAFO, Respondent must pay a \$1,000 civil penalty by cashier's check, certified check, or electronic funds transfer,

For checks sent by regular U.S. Postal Service mail: send a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

For checks sent by express mail: send a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
Mail Station SL-MO-C2-GL
St. Louis, Missouri 63101

The check must include the case name, docket number of this CAFO, and the billing document number.

For electronic funds transfer: make the electronic funds transfer, payable to "Treasurer, United States of America," and send to:

Federal Reserve Bank of New York
ABA No. 021030004
Account No. 68010727
33 Liberty Street
New York, New York 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, include the case name, the docket number of this CAFO, and the billing document number.

56. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance
Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Michael Berman (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

58. If Respondent does not timely pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

59. 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 pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. 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. 42 U.S.C. § 7413(d)(5)

General Provisions

60. This CAFO resolves Respondent's liability to the EPA and the United States with respect to all claims that were raised in the Finding of Violation issued June 10, 2011 by EPA and as set forth in this Order.

61. This CAFO does not affect the rights of EPA or the United States to pursue

appropriate injunctive or other equitable relief or criminal sanctions for any other violation of law.

62. This CAFO is being filed simultaneously with an Administrative Consent Order which seeks appropriate injunctive relief necessary to address alleged violations of law and assure ongoing compliance with all applicable regulations.

63. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in Paragraph 60, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

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

65. The terms of this CAFO bind Respondent, its successors and assignees.

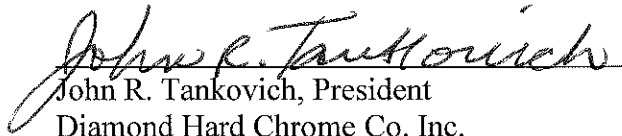
66. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

67. Each party agrees to bear its own costs and attorneys' fees in this action.

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

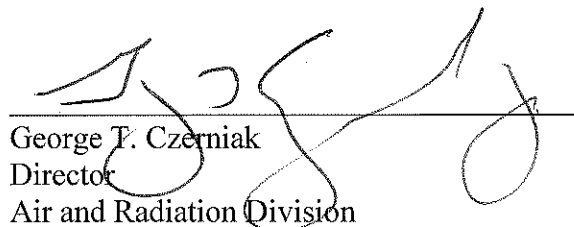
Diamond Hard Chrome Co. Inc., Respondent

10-22-14
Date


John R. Tankovich, President
Diamond Hard Chrome Co. Inc.

United States Environmental Protection Agency, Complainant

11/6/14
Date



George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Diamond Hard Chrome Co. Inc.
Docket No. CAA-05-2015-0008

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.

11-12-14
Date



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

**Consent Agreement and Final Order
In the Matter of: Diamond Hard Chrome Co. Inc.
Docket No.**

CAA-05-2015-0008

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2015-0008 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

John R. Tankovich, President
Diamond Hard Chrome Co. Inc.
6110 Grand Avenue
Cleveland, Ohio 44104

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

George Baker
Department of Public Health, Division of Air Quality
Cleveland, Ohio

Robert Hodanbosi
Ohio Environmental Protection Agency
Columbus, Ohio

Robert Casarona
Roetzel & Andress
1375 E. Ninth Street
One Cleveland Center
Ninth Floor
Cleveland, OH 44114

On the 13 day of November 2014.

Kathy Jones

for Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7011 1150 0000 2639 3113