

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2020-0032 Type text here
)	
Fritz Products, Inc.)	Proceeding to Assess a Civil Penalty
River Rouge, Michigan)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
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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 at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Fritz Products, Incorporated (Fritz or Respondent), a corporation doing business in Michigan.

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). See 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 112 of the Act, 42 U.S.C. § 7412, requires the EPA to promulgate a list of all categories and subcategories of new and existing “major sources” and “area sources” of hazardous air pollutants (HAP) and establish emissions standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP). The EPA codified these standards at 40 C.F.R. Parts 61 and 63.

10. “Major source” is defined at 42 U.S.C. § 7412(a)(1) as “any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.”

11. “Area source” is defined at 42 U.S.C. § 7412(a)(2) as “any stationary source of hazardous air pollutants that is not a major source.”

NESHAP for Secondary Aluminum Production

12. Under Section 112 of the CAA, U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 through 63.1517 (Subpart RRR NESHAP). The Subpart

RRR NESHAP applies to secondary aluminum production units located at a secondary aluminum production facility.

13. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1503, defines “secondary aluminum processing unit” as all group 1 furnaces within a secondary aluminum production facility.

14. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1503, defines “group 1 furnaces” as a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing, or processes clean charge with reactive fluxing.

15. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1501(a), states that an affected source constructed before February 11, 1999 must comply with certain requirements of Subpart RRR NESHAP by March 24, 2003, except as provided in paragraphs (b) and (c) which provide for compliance dates of March 16, 2016 and September 18, 2017, with respect to listed sections of the Subpart RRR NESHAP.

16. Unless otherwise noted below, 40 C.F.R. § 63.1501(a) requires compliance with the various sections and subsection of Subpart RRR NESHAP by March 24, 2003.

17. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1505(i)(3), prohibits the owner or operator of a group 1 furnace which processes other than only clean charge from discharging to the atmosphere emissions in excess of 15 micrograms of dioxin/furans (D/F) per megagram (2.1×10^{-4} grains per ton) of feed/charge.

18. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1505(i)(4), provides a HCl emission limit for major sources only.

19. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1505(k)(3), states that the owner or operator must comply with the emission limit calculated using the equation for D/F in this section for each secondary aluminum processing unit at a secondary aluminum production facility that is an area source.

20. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1506(m), states that the owner or operator of a group 1 furnace with emissions controlled by a lime-injected fabric filter must: (3) maintain the 3-hour block average inlet temperature for each fabric filter at or below the average temperature established during the performance test, plus 14 °C (plus 25 °F); (4) for a continuous lime injection system, maintain free-flowing lime in the hopper to the feed device at all times and maintain the lime feeder setting at or above the level established during the performance test; 40 C.F.R. § 63.1501(b) requires compliance with subsection (4) by March 16, 2016 and; and (5) maintain the total reactive chlorine flux injection rate for each operating cycle or time period used in the performance test at or below the average rate established during the performance test.

21. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(h)(2)(i), states that the owner or operator of a group 1 furnace must install, calibrate, maintain, and operate a device to continuously monitor the temperature of the fabric filter inlet gases in 15-minute block averages and calculate and record the average temperature for each 3-hour block period.

22. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(i)(1), states that the owner or operator of an affected source using a continuous lime injection system must verify that lime is always free-flowing by either: (i) inspecting each feed hopper or silo at least once each 8-hour period and recording the results of each inspection. If lime is found not to be free-flowing during any of the 8-hour periods, the owner or operator must increase the frequency of inspections to at least once every 4-hour period for the next 3 days. The owner or operator may return to

inspections at least once every 8-hour period if corrective action results in no further blockages of lime during the 3-day period; or (ii) subject to the approval of the permitting agency, installing, operating and maintaining a load cell, carrier gas/lime flow indicator, carrier gas pressure drop measurement system or other system to confirm that lime is free-flowing. If lime is found not to be free-flowing, the owner or operator must promptly initiate and complete corrective action; or (iii) subject to the approval of the permitting agency, installing, operating and maintaining a device to monitor the concentration of hydrochloric acid (HCl) at the outlet of the fabric filter. If an increase in the concentration of HCl indicates that the lime is not free-flowing, the owner or operator must promptly initiate and complete corrective action.

23. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(i)(2), states that the owner or operator of a continuous lime injection system must record the lime feeder setting once each day of operation.

24. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(j)(1)(i), states that the owner or operator of a group 1 furnace must install, calibrate, operate, and maintain a device to continuously measure and record the weight of gaseous or liquid reactive flux injected to each source or unit. The monitoring system must record the weight for each 15-minute block period, during which reactive fluxing occurs, over the same operating cycle or time period used in the performance test.

25. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(v), states that the owner or operator of a lime-coated fabric filter that employs intermittent or noncontinuous lime addition may apply to the Administrator for approval of an alternative method for monitoring the lime addition schedule and rate based on monitoring the weight of lime added per ton of feed/charge for each operating cycle or time period used in the performance test.

26. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1511(b), states, in part, that following approval of the site-specific test plan, the owner or operator must demonstrate initial compliance with each applicable emission.

27. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1511(g), states that the owner or operator of new or existing affected sources and emission units must establish a minimum or maximum operating parameter value, or an operating parameter range for each parameter to be monitored as required by 40 C.F.R. § 63.1510 that ensures compliance with the applicable emission limit or standard. To establish the minimum or maximum value or range, the owner or operator must use the appropriate procedures in this section and submit the information required by 40 C.F.R. § 63.1515(b)(4) in the notification of compliance status report. 40 C.F.R. § 63.1501(b) requires compliance with subsection 40 C.F.R. § 63.1506(g)(5) by March 16, 2016.

28. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(v), states that the owner or operator of a lime-coated fabric filter that employs intermittent or noncontinuous lime addition may apply to the Administrator for approval of an alternative method for monitoring the lime addition schedule and rate based on monitoring the weight of lime added per ton of feed/charge for each operating cycle or time period used in the performance test.

29. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(t), states that the owner or operator must calculate and record the 3-day, 24-hour rolling average emissions of D/F for each secondary aluminum processing unit on a daily basis and provides a calculation methodology.

30. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1510(b), states that the owner or operator must prepare and implement for each new or existing affected source and emission unit, a written Operation, Maintenance, and Monitoring (OM&M) plan. The owner or operator must comply with all of the provisions of the OM&M plan as submitted to the permitting authority.

31. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1512(n), states that the owner or operator of a group 1 furnace using a lime-injected fabric filter must: (1) continuously measure and record the temperature at the inlet to the lime-injected fabric filter every 15 minutes during the HCl and D/F performance tests; (2) determine and record the 15-minute block average temperatures for the 3 test runs; and (3) determine and record the 3-hour block average of the recorded temperature measurements for the 3 test runs.

32. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1512(o)(1), states that the owner or operator must establish an operating parameter value or range for the total reactive flux injection rate by continuously measuring and recording the weight or gaseous or liquid reactive flux injected for each 15-minute period during the HCl and D/F tests, determine and record the 15-minute block average weights, and calculate and record the total weight of the gaseous or liquid reactive flux for the 3 test runs.

33. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1512(p), states that the owner or operator must use these procedures during the HCl and D/F tests to establish an operating parameter value for the feeder setting for each operating cycle or time period used in the performance test: (1) for continuous lime injection systems, ensure that lime in the feed hopper or silo is free-flowing at all times; and (2) record the feeder setting and lime injection rate for the 3 test runs. If the feed rate setting and lime injection rates vary between the runs, determine and record the average feed rate and lime injection rate from the 3 runs. 40 C.F.R. § 63.1501(b) requires compliance with subsection 40 C.F.R. § 63.1512(p)(2) by March 16, 2016.

34. The Subpart RRR NESHAP, at 40 C.F.R. § 63.1515(b)(4), requires each owner or operator of an existing affected source must submit a notification of compliance status report within 60 days after the compliance date established by 40 C.F.R. § 63.1501.

Permit to Install

35. On October 12, 2012, Michigan Department of Quality (MDEQ) issued a Permit to Install (PTI) No. 15-01A (2012 PTI).

36. The 2012 PTI at FGAluminumMelt.I.3. provides a HCl emission limit of 2.0 pounds per hour at the EUReverbFurnace1.

37. 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 \$320,000 for CAA violations that occurred after December 6, 2013 through November 2, 2015, and up to \$48,192 per day of violation up to a total of \$385,535 for violations that occurred after November 2, 2015, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

38. 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.

39. 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

40. Fritz owns and operates a secondary aluminum production facility at 255 Marion Road, River Rouge, Michigan (the facility).

41. Fritz operates a secondary aluminum production unit, specifically a group 1 furnace, located at a secondary aluminum production facility.

42. Fritz is subject to the Subpart RRR NESHAP.

43. The facility was in operation before February 11, 1999.

44. Fritz has submitted to the EPA semi-annual reports as required by 40 C.F.R.

§ 63.15165 for the periods ending June 30, 2016, December 31, 2016, June 30, 2017, December 31, 2017, June 30, 2018, December 31, 2018, June 30, 2019 and December 31, 2019

(collectively the “Semi-Annual Reports”). In addition to the information provided in the Semi-Annual Reports, Fritz provided information and data to the EPA in responding to Section 114(a) requests, e-mails, during site visits, and in various correspondence.

45. On September 27, 2010, December 20, 2013, and June 20, 2019, EPA issued Fritz a Finding of Violation (FOV) and two Notice and Finding of Violation (NOV/FOVs) alleging violations of Subpart RRR NESHAP and Fritz’s 2012 PTI, and certain other allegations that EPA is no longer pursuing.

46. Specifically, the September 27, 2010, FOV alleged facts to support the allegations that Fritz violated the Subpart RRR NESHAP by failing to: (i) comply with the D/F emission limit in violation of 40 C.F.R. § 63.1505(i)(3); (ii) have a bag leak detection system or continuous opacity monitor to monitor operations on the baghouse controlling the group I furnace in violation of 40 C.F.R. § 63.1510(f); (iii) install, calibrate, operate and maintain a device to continuously measure and record the weight of gaseous and liquid reactive flux injected into its group I furnace in violation of 40 C.F.R. § 63.1510(j)(1); (iv) establish an operating parameter value of range for the total reactive flux injection rate by continuously measuring and recording the weight of gaseous or liquid reactive flux injected for each 15-minute period during D/F testing in violation of 40 C.F.R. § 63.1512(o); (v) obtain approval from the State for a lime addition monitoring procedure for its intermittent lime addition into the

facility baghouse furnace in violation of 40 C.F.R. § 63.1510(i)(3); (vi) apply to the Administrator for approval of an alternative method for monitoring the lime addition schedule and rate in order to employ intermittent or noncontinuous lime addition into the facility baghouse during performance testing in violation of 40 C.F.R. § 63.1511(v); (vii) retain records of lime injection amounts into the facility baghouse for at least 5 years from the date of each measurement in violation of 40 C.F.R. § 63.10(b); (viii) retain records of the facility baghouse inlet temperature in 15-minute block averages, to calculate and record the average temperature for each 3-hour block period in violation of 40 C.F.R. § 63.1510(h)(2); and (ix) comply with all of the provisions of the facility's OM&M plan as submitted to the permitting authority is a violation of 40 C.F.R. § 63.1512(b).

47. The December 20, 2013, NOV/FOV alleged facts to support the allegations that Fritz violated the Subpart RRR NESHAP by failing to comply with the D/F emission limit and certain other allegations which EPA is no longer pursuing, including: the major source provisions of the Subpart RRR NESHAP, and Section 502(a) of the CAA, 42 U.S.C. § 7661a, and the implementing regulations at 40 C.F.R. Part 70, by failing to submit a timely and completely Title V permit application.

48. The June 20, 2019, NOV/FOV alleged facts to support the allegations that Fritz violated the Subpart RRR NESHAP and the 2012 PTI by failing to: (i) comply with the D/F emission limit in violation 40 C.F.R. § 63.1505(i)(3); (ii) operate in accordance with the total reactive chlorine flux injection rate and the lime feed rate established during performance tests in violation of 40 C.F.R. §§ 63.1506(m)(4) and 40 C.F.R. 63.1506(m)(5); (iii) demonstrate continuous compliance with the emission standards at 40 C.F.R. § 63.1505(i)(3) and Condition.FGAluminumMelt.I.2. of PTI 15-01A by operating in accordance with the total

reactive chlorine flux injection rate and the lime feed rate established during performance tests; (iv) demonstrate continuous compliance with the emission standards at 40 C.F.R. § 63.1505(i)(3) and Condition.FGAluminumMelt.I.2. of PTI 15-01A by operating in accordance with the powdered activated carbon injection rate established during the July 19 and 20, 2016 performance tests; (v) prepare and implement a written OM&M Plan that contain procedures for the proper operation and maintenance of each process unit; procedures to determine and record the time corrective action was initiated and the time/date corrective action was completed; procedures for recording the time corrective action was initiated, and the time/date corrective action was completed; and a maintenance schedule for each process that is consistent with the manufacturer's instruction and recommendations for routine and long-term maintenance in violation of 40 C.F.R. § 63.1510(b)(3), (6), and (7); (vi) install, calibrate, operate and maintain a device to measure and record the total weight of feed/charge to, or the aluminum production from, the affected source or emission unit over the same operating cycle or time period used in the performance test in violation of 40 C.F.R. § 63.1510(e); (vii) submit Subpart RRR semiannual compliance reports in violation of 40 C.F.R. § 63.1516(b); and the allegation that Fritz failed to demonstrate continuous compliance with 40 C.F.R. § 63.1506(c)(1) and (2), which the EPA is no longer pursuing.

49. Since the FOV, and NOV/FOVs were issued, representatives of Fritz and EPA have met, and discussed, on numerous occasions, steps for Fritz to take to attain compliance with the Subpart RRR NESHAP and its 2012 PTI.

50. An Administrative Consent Order is being issued contemporaneously with this CAFO.

Civil Penalty

51. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and the current financial situation of the Respondent, Complainant has determined that an appropriate civil penalty to settle this action is \$125,000.

52. Respondent must pay the \$125,000 civil penalty in 5 installments with interest as follows:

<i>Installment</i>	<i>Due By</i>	<i>Payment</i>	<i>Principal</i>	<i>Interest (2%)</i>
<i>Payment #1</i>	<i>Within 90 days of effective date of CAFO</i>	<i>\$25,166.67</i>	<i>\$25,000</i>	<i>\$0.00</i>
<i>Payment #2</i>	<i>Within 150 days of effective date of CAFO</i>	<i>\$25,166.67</i>	<i>\$25,000</i>	<i>\$333.33</i>
<i>Payment #3</i>	<i>Within 210 days of effective date of CAFO</i>	<i>\$25,166.67</i>	<i>\$25,000</i>	<i>\$250.00</i>
<i>Payment #4</i>	<i>Within 270 days of effective date of CAFO</i>	<i>\$25,166.67</i>	<i>\$25,000</i>	<i>\$166.67</i>
<i>Payment #5</i>	<i>Within 330 days of effective date of CAFO</i>	<i>\$25,166.67</i>	<i>\$25,000</i>	<i>\$83.33</i>

Respondent must pay the installments by electronic funds transfer, payable to “Treasurer, United States of America,” and sent 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, state Respondent’s name and the docket number of this CAFO.

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

Attn: Compliance Tracker (ECA-18J)
Air Enforcement and Compliance Assurance Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

55. If Respondent does not pay timely any installment payment as set forth in paragraph 52 above, the entire unpaid balance of the civil and any amount required by paragraph 56, below, shall become due and owing upon written notice by EPA to Respondent of the delinquency. 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.

56. 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 attorney 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

57. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: king.cynthia@epa.gov (for Complainant), and bill@fritzinc.com (for Respondent).

The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

59. The 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 violation of law.

60. 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 58, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

61. Respondent certifies to the best of its knowledge and belief, that it is complying fully with the Subpart RRR NESHAP.

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

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

64. 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.
65. Each party agrees to bear its own costs and attorney fees in this action.
66. This CAFO constitutes the entire agreement between the parties.

Fritz Products, Inc. Respondent

8/19/2020
Date

William L. Elson
William L. Elson
Senior Vice President, General Counsel
Fritz Products, Inc.

United States Environmental Protection Agency, Complainant

Date

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2020.09.02
17:44:21 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Fritz Products, Inc.
Docket No. CAA-05-2020-0032

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.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2020.09.04
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Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5