



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

SEP 15 2006

REPLY TO THE ATTENTION OF
AE-17J

Michael Stroh, President
Stroh Die Casting Company, Inc.
11123 West Burleigh Street
Milwaukee, WI 53222

Re: In the Matter of Stroh Die Casting
Co., Inc.
CAA Docket No. **CAA-05-2006-0030**

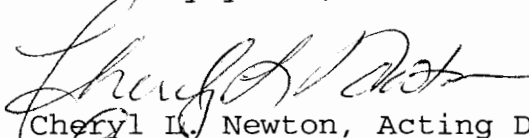
Dear Mr. Stroh:

I have enclosed a complaint filed against Stroh Die Casting Co., Inc., under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d). The complaint alleges violations of the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production facilities at 40 C.F.R. Part 63, Subpart RRR.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact Deborah Carlson, Associate Regional Counsel, U.S. Environmental Protection Agency, (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312)353-6121.

Sincerely yours,


Cheryl L. Newton, Acting Director
Air and Radiation Division

Enclosures

cc: Michael Simpson
Bill Yantawood, WDNR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

2006 SEP 15 PM 3:16

IN THE MATTER OF:) Docket No. **CAA-05-2006-0030**
)
Stroh Die Casting Co., Inc.) Proceeding to Assess a Civil
Milwaukee, Wisconsin) Penalty under Section 113(d)
) of the Clean Air Act,
Respondent.) 42 U.S.C. § 7413(d)
)
_____)

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Stroh Die Casting Co., Inc., (Stroh Die Casting) a corporation doing business in Wisconsin.

Statutory and Regulatory Background

4. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production facilities at 40 C.F.R. Part 63, Subpart RRR.

5. The NESHAP, at 40 C.F. R. § 63.1500, applies to the owner or operator of each secondary aluminum production facility as defined in Section 63.1503.

6. A secondary aluminum production facility means any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and performing one or

more of the following processes: scrap shredding, scrap drying/delaquering/decoating, thermal chip drying, furnace operations (i.e., melting, holding, sweating, refining, fluxing, or alloying) recovery of aluminum from dross, in-line fluxing or dross cooling. 40 C.F.R. § 63.1503.

7. For purposes of Subpart RRR, aluminum die casting facilities are not considered to be secondary aluminum production facilities if the only materials they melt are clean charge, customer returns or internal scrap. 40 C.F.R. § 63.1503.

8. Customer returns means any aluminum product which is returned by a customer to the aluminum company that originally manufactured the product prior to resale of the product or further distribution in commerce, and which contains no paint or other solid coatings (i.e., laquers).

9. Pursuant to 40 C.F.R. § 63.1500(c), the requirements of Subpart RRR pertaining to dioxin and furan (D/F) emissions and the associated operating, monitoring, reporting and recordkeeping requirements apply to affected sources, located at each new and existing facility that is an area source of hazardous air pollutants as defined in 40 C.F.R. § 63.2, including among other things, furnaces defined as group 1 furnaces in the NESHAP.

10. U.S. EPA issued a Finding of Violation to Stroh Die Casting on February 9, 2006, citing specified violations of the secondary aluminum production NESHAP.

11. 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 after March

15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2005).

12. 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

13. 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 complaint.

General Allegations

14. Stroh Die Casting owns and operates a facility at 11123 West Burleigh Street, in Milwaukee, Wisconsin.

15. Stroh Die Casting's facility includes four furnaces used for melting aluminum.

16. On various occasions between at least April 2004 and November 2004, Stroh Die Casting melted coated aluminum customer returns in one or more of its furnaces used for melting aluminum.

17. Stroh Die Casting's melting coated customer returns caused Stroh Die Casting's facility to be subject to the requirements at 40 C.F.R. Part 63, Subpart RRR.

18. Stroh Die Casting is an area source for Hazardous Air Pollutants (HAPs).

Count I

19. Complainant incorporates paragraphs 1 through 18 of this complaint, as if set forth in this paragraph.

20. By May 24, 2003, or at some time prior to melting coated customer returns, Stroh Die Casting was required to submit an initial notification, stating that its facility was subject to the NESHAP Secondary Aluminum Production Requirements. Stroh Die Casting failed to submit this initial notification, in violation of 40 C.F.R. § 63.1515(a).

Count II

21. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

22. By May 24, 2003, or at some time prior to melting coated customer returns, Stroh Die Casting was required to submit a notification of compliance status. Stroh Die Casting failed to submit that notification, in violation of 40 C.F.R. § 63.1515(b).

Count III

23. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

24. By March 24, 2003, or some time prior to melting coated customer returns, Stroh Die Casting was required to perform initial performance tests on its affected emission source. Stroh Die Casting did not conduct such a test, in violation of 40 C.F.R. § 63.1511(b).

Count IV

25. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

26. By March 24, 2003, or at some time prior to melting coated customer returns, Stroh Die Casting was required to prepare and implement an Operation, Maintenance, and Monitoring (OM&M) Plan. Stroh Die Casting did not prepare or implement an OM&M plan, in violation of 40 C.F.R. § 63.1510(b).

Count V

27. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

28. By March 24, 2003, or at some time prior to melting coated customer returns, Stroh Die Casting was required to develop and implement an approved written Startup, Shutdown, and Malfunction (SSM) Plan. Stroh Die Casting did not develop or implement an SSM plan, in violation of 40 C.F.R. § 63.1516(a).

Count VI

29. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

30. Within 60 days of each six month period, Stroh Die Casting was required to submit an Excess Emission/Summary Report. Stroh Die Casting failed to submit its report, in violation of 40 C.F.R. § 63.1516(b).

Count VII

31. Complainant incorporates paragraphs 1 through 18 of this Complaint, as if set forth in this paragraph.

32. Stroh Die Casting failed to operate all new and existing affected sources and control equipment according to the operating requirements in Subpart RRR in violation of 40 C.F.R. § 63.1506(b).

Proposed Civil Penalty

33. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

34. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$70,922. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

35. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

36. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (the Consolidated Rules) at 40 C.F.R. Part 22 (2005) govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

37. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as

part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (E-13J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

38. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Deborah Carlson, ORC Attorney, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Deborah Carlson at (312) 353-6121. Deborah Carlson's address is:

Deborah Carlson (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Penalty Payment

39. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 371531
Pittsburgh, PA 15251-7531

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Deborah Carlson and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Opportunity to Request a Hearing

40. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 41 through 45 below.

Answer

41. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 37, above, and must serve copies of the written answer on the other parties.

42. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period

extends to the next business day.

43. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

44. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

45. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 40 above.

46. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section 22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

Settlement Conference


47. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Deborah Carlson at the address or phone number specified in paragraph 38, above.

48. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

49. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

9/15/06
Date


Cheryl E. Newton, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

In the Matter of Stroh Die Casting Co., Inc.
Docket No. **CAA-05-2006-0030**

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number [] to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Michael Stroh, President
Stroh Die Casting Company, Inc.
11123 West Burleigh Steet
Milwaukee, WI 53222

Michael Simpson
Reinhart, Boerner, Van Deuren S.C.
P.O. Box 2965
Milwaukee, WI 53201-2965

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REGIONAL HEARING CLERK
US EPA REGION V
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on the 15th day of September, 2006.

Shanee Rucker
Shanee Rucker, Secretary
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0000 1447 9406