



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

REPLY TO THE ATTENTION OF:

JUL 13 2009

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey J. Toeppe
Vice-President
Wisconsin Plating Works of Racine, Inc.
620 Stannard Street
Racine, Wisconsin 53403

Re: In the Matter of: Wisconsin Plating Works of Racine, Inc.
Docket No. CAA-05-2008-0037

Dear Mr. Moberg:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves In the Matter of Wisconsin Plating Works of Racine, Inc., Docket No. CAA-05-2008-0037. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on JUL 14 2009

Pursuant to paragraph 10 of the CAFO, Wisconsin Plating Works of Racine, Inc. must pay the civil penalty within 30 days of [date CAFO filed]. Your [check][electronic funds transfer] must display the case name, case docket number CAA-05-2008-0037, and the billing document number 2750903A030.

Please direct any questions regarding this case to Padmavati G. Bending, Associate Regional Counsel, 312-353-8917.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bonnie Bush".

Bonnie Bush
Air Enforcement and Compliance Assurance
Section MI/WI

Enclosure

RECEIVED

JUL 14 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

In the Matter of:) Docket No. CAA-05-2008-0037
)
Wisconsin Plating Works of Racine, Inc.)
Racine, Wisconsin) Honorable Judge Susan Biro
) Presiding Administrative Law Judge
Respondent.)
_____)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5, brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).
2. On September 22, 2008, EPA filed the Complaint in this action against Respondent Wisconsin Plating Works of Racine, Inc. The Complaint alleges that Respondent violated Section 112(d) of the Act, 42 U.S.C. § 7412(d), and 40 C.F.R. Part 63, Subpart T at its facility in Racine, Wisconsin.
3. On October 24, 2008, Respondent filed an Answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).
4. On April 30, 2009, this Court granted Complainant's Motion for Accelerated Decision on Liability.

Stipulations

5. Respondent admits the jurisdictional allegations in the Complaint and neither admits nor denies the factual and legal allegations in the Complaint other than those it admitted in its Answer.
6. Respondent waives any right to contest the allegations in the Complaint and its right to appeal this Consent Agreement and Final Order (CAFO).

7. Respondent certifies that it is complying fully with 40 C.F.R. Part 63, Subpart T.
8. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.
9. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

10. In consideration of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), including the facts of this case, the nature of the violations, the economic impact of the penalty on Respondent's business, and other relevant factors, Complainant agrees to mitigate the proposed penalty of \$72,683 to \$30,000.

11. Within 30 days after the effective date of this CAFO, Respondent must pay the \$30,000 civil penalty by one of the following options:

a. Sending via U.S. Postal Service mail a cashier's or certified check payable to the "Treasurer, United States of America," to:

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

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

b. Sending via a carrier that will not deliver to P.O. Boxes (e.g., express carrier) a cashier's or certified check payable to the "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 note the case name, docket number of this CAFO, and the billing document number.

c. Sending via electronic funds transfer payable to the "Treasurer, United States of America," 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 the case name, the docket number of this CAFO, and the billing document number.

12. When paying the civil penalty described above, a transmittal letter stating the Respondent's name, complete address, the case docket number, and the billing document number must accompany proof of the payment. Respondent must send a copy of the check or proof of the EFT and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

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

Padmavati G. Bending, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

13. This civil penalty is not deductible for federal tax purposes.
14. If Respondent does not timely pay any portion of the civil penalty, then the entire penalty of \$72,683 (minus any payments Respondent has already made, not including interest) is due immediately from Respondent upon written demand from EPA. If Respondent does not timely pay any portion of the civil penalty, EPA may also bring an action to collect the entire penalty of \$72,683 (minus any payments Respondent has already made, not including interest) with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.
15. 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 overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. 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 quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). 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.

General Provisions

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

17. 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 violation of law.

18. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws. Except as provided in Paragraph 16, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

19. 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 Act, 42 U.S.C. § 7413(e).

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

21. 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.

22. Each party agrees to bear its own cost and attorneys' fees in this action.

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

Wisconsin Plating Works of Racine, Inc., Respondent

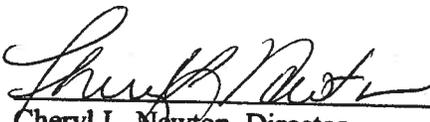
7/2/2009
Date



Jeffrey I. Toeppe, Vice-President
Wisconsin Plating Works of Racine, Inc.

United States Environmental Protection Agency, Complainant

7/8/09
Date



Cheryl L. Newton, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

CONSENT AGREEMENT AND FINAL ORDER
Wisconsin Plating Works of Racine, Inc.
CAA-05-2008-0037

Final Order

This Consent Agreement and Final Order, as agreed to by 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.

7/10/09
Date

Walter W. Karalutz
for
Bharat Mathur
Acting Regional Administrator
United States Environmental Protection Agency
Region 5

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JUL 14 2009

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U.S. ENVIRONMENTAL
PROTECTION AGENCY

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PROTECTION AGENCY

JUL 14 2009

OFFICE OF REGIONAL
COUNSEL

In the Matter of:
Wisconsin Plating Works of Racine, Inc.
Docket No. CAA-05-2008-0037

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order in this matter with the Regional Hearing Clerk (E-13J), United States Environmental Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, and that mailed by Certified Mail, Receipt No. [], the second original to Respondent, addressed as follows:

Jeffrey J. Toeppe
Vice-President
Wisconsin Plating Works of Racine, Inc.
620 Stannard Street
Racine, Wisconsin 53403

and that I mailed a correct copy by first class, United States mail, addressed as follows:

Honorable Judge Biro
United States Environmental Protection Agency
Office of Administrative Law Judges
Mailcode 1900L/Ariel Rios Building
1200 Pennsylvania Avenue NW
Washington, D.C. 20460

On this 14 day of July, 2009.


Tracy Jamison
MI/WI

CERTIFIED MAIL RECEIPT NUMBER: 7001-0320 code 0187 62 63

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JUL 14 2009

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