



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUN 07 2012

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David Ford
Air Program Manager
Naval Air Station
Department of the Navy
P.O. Box 2
Jacksonville, Florida 32212-1002

Re: Consent Agreement and Final Order
In the Matter of Naval Air Station, Jacksonville
Docket No. CAA-04-2011-1527(b)

Dear Mr. Ford:

Enclosed please find a copy of the ratified Consent Agreement and Final Order (CAFO) in the above-referenced matter. The original CAFO has been filed with the Regional Hearing Clerk as directed in Section 22.05(a) of the Consolidated Rules of Practice, as amended. Please refer to Section V (Final Order), for the terms and instructions regarding the Naval Air Stations' final payment on the penalty due. Any questions regarding the processing of the Naval Air Station's penalty may be directed to Mr. Bryson Lehman, Financial Management Office, at (513) 487-2123.

If you have any other questions, please contact Kevin Taylor of the South Air Enforcement Section at (404) 562-9134.

Sincerely,

A handwritten signature in black ink that reads "Beverly A. Spagg".

Beverly A. Spagg
Chief
Air & EPCRA Enforcement Branch

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)

Naval Air Station)
Department of the Navy)
Jacksonville, Florida)

Respondent.)

Docket No. CAA-04-2011-1527(b)

HEARING CLERK

2012 JUN -7 AM 11:01

RECEIVED
EPA REGION IV

CONSENT AGREEMENT AND FINAL ORDER

I. Nature of the Action/Jurisdictional Statements

1. This is a civil penalty proceeding pursuant to section 113(d) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(d), and pursuant to the Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), codified at 40 C.F.R. part 22.
2. Complainant is the Director of the Air, Pesticides and Toxics Management Division, Region 4, United States Environmental Protection Agency. Respondent, the Naval Air Station, is a unit of the Department of the Navy, an agency of the United States government.
3. Consistent with Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the requisite joint determination has been made by EPA and the United States Department of Justice that this matter is appropriate for an administrative penalty action.
4. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to resolve this matter and settle the allegations described herein without a formal hearing. Therefore, without the taking of any evidence or testimony, the making of any argument, or the adjudication of any issue in this matter, and in accordance with 40 C.F.R. § 22.13(b), this Consent Agreement and Final Order (CAFO) will simultaneously commence and conclude this matter.
5. The authority to take action under Section 113(d) of the CAA, 42 U.S.C. § 7413(d), is vested in the EPA Administrator. The EPA Administrator has delegated this authority under the CAA to the Regional Administrators by EPA Delegation 7-6-A. The Regional Administrator, Region 4, has redelegated this authority to the Director, Air, Pesticides, and Toxics Management Division, by EPA Region 4 Delegation 7-6-A. Pursuant to that delegation, the Director of the Air, Pesticides and Toxics Management Division has the authority to commence an enforcement action as the Complainant in this matter.

6. Respondent is the owner or operator of a stationary source located at 6801 Roosevelt Avenue, Jacksonville, Florida, which is a Naval Air Station of the Department of Navy.

7. Respondent is a "person" as defined in CAA § 302(e), 42 U.S.C. § 7602(e).

II. Statutory and Regulatory Background

8. Pursuant to section 502(a) of the Act, 42 U.S.C. § 7661(a), and 40 C.F.R. § 70.7(b), after the effective date of any permit program approved or promulgated under title V of the Act, no source subject to title V may operate except in compliance with a title V permit.

9. EPA granted full approval of Florida's title V program on October 31, 2001, and Florida's title V program became effective on that date. 40 C.F.R. part 70, App. A.

10. Pursuant to 40 C.F.R. § 70.6(a), a title V permit must include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance. For title V purposes, the term "applicable requirement" includes, among other things, any standard or other requirement under section 112 of the Act. 40 C.F.R. § 70.2.

11. Pursuant to 40 C.F.R. § 70.6(b)(1), all terms and conditions in a part 70 permit are enforceable by the Administrator and citizens under the Act.

12. Section 112(d) of the CAA, 42 U.S.C. § 7412(d), authorizes EPA to promulgate emission standards for categories of sources of hazardous air pollutants (HAPs), listed in Section 112(b)(1) of the CAA. Those regulations have been promulgated at 40 C.F.R. part 63, and regulate specific categories of stationary sources that emit (or have the potential to emit) one or more HAPs. The HAP regulations contain general provisions in subpart A and special provisions for specific categories in the subparts to part 63.

13. On September 1, 1995, EPA promulgated the National Emission Standards for Aerospace Manufacturing and Rework Facilities (60 Fed. Reg. 45948), which were published at 40 C.F.R. part 63, subpart GG. EPA amended subpart GG on December 8, 2000, (65 Fed. Reg. 76941). The compliance date for existing sources was September 1, 1997. New sources subject to subpart GG are required to comply upon start up. The subpart GG requirements are the maximum achievable control technology (MACT) standards for the aerospace manufacturing and rework industry under 40 C.F.R. part 63.

14. Pursuant to subpart GG, 40 C.F.R. § 63.752(e)(4), the owner or operator of a source subject to this subpart shall, for each type of aircraft depainted at the facility, maintain a listing of the parts, subassemblies, and assemblies normally removed from the aircraft before depainting.

15. Pursuant to subpart GG, 40 C.F.R. § 63.753(d), the owner or operator of a source subject to this subpart shall submit semiannual and annual reports detailing any new non-chemical depainting

techniques used at the facility, any malfunctions that have occurred, a listing of the type of aircraft models used, and a listing of the parts normally removed for depainting each new aircraft model.

16. Pursuant to 40 C.F.R. §§ 63.6(e) and 63.743(b), the owner or operator of a source subject to this subpart must develop a written plan that contains specific procedures to be followed for operating the source and maintaining the source during periods of startup, shutdown, and malfunction and a program of corrective action for malfunctioning process and control systems used to comply with the standards.

III. Factual Allegations and Conclusions of Law

17. Respondent owns or operates a naval air facility at 6801 Roosevelt Boulevard, Jacksonville (Duval County), Florida 32212.

18. Respondent's Jacksonville facility is considered a major source of HAPs under section 112(a) of the CAA and is subject to regulations for aerospace manufacturing and rework facilities at 40 C.F.R. part 63, subpart GG.

19. Respondent's Jacksonville facility operates under Title V Air Operation Permit No. 0310215-042-AV (title V permit), issued on June 7, 2009, by the Duval County, Florida, Environmental and Compliance Department.

20. Respondent's Jacksonville facility's title V permit identifies specific depainting booths that are subject to the MACT requirements of subpart GG. The booths that are subject to subpart GG MACT requirements are booth numbers 015, 077, 078, 103 and 105. The depainting booths that were not included in being subject to the MACT requirements of subpart GG are booth numbers 064, 065, 066, and 070.

21. During the period of approximately December 2008, until approximately May 2009, Respondent depainted aircraft wing brackets that were subject to the requirements of subpart GG. Respondent performed the depainting of the brackets in depainting booth 066, located in building 794. Booth 066 was not designated a MACT unit under subpart GG or Respondent's title V permit.

22. During the period of approximately December 2008, until approximately May 2009, Respondent violated 40 C.F.R. § 63.752(e)(4) by failing to maintain a listing of the parts, subassemblies, and assemblies normally removed from the aircraft before depainting in booth 066.

23. During the period of approximately December 2008, until approximately May 2009, Respondent violated 40 C.F.R. § 63.753(d) by failing to submit annual and semiannual reports detailing the non-chemical technique used, if any malfunctions occurred and a listing of aircraft parts normally removed for depainting in booth 066.

24. During the period of approximately December 2008, until approximately May 2009, Respondent violated 40 C.F.R. §63.6(e)(3) by failing to develop and implement a startup, shutdown and malfunction plan for booth 066.

25. During the period of approximately December 2008, until approximately May 2009, Respondent operated depainting booth 066 as a MACT subpart GG booth, in violation of its title V permit, which classified depainting booth 066 as a non-MACT emission unit.

IV. Terms of Settlement

26. Respondent stipulates that EPA has jurisdiction over the subject matter of this CAFO, and Respondent waives any jurisdictional defenses.

27. Respondent neither admits nor denies the factual allegations and conclusions of law set forth above in this CAFO.

28. As provided in 40 C.F.R. § 22.18(b)(2), for the purposes of this proceeding, Respondent waives its right to a hearing on the allegations contained herein and its right to appeal the proposed final order accompanying this consent agreement.

29. Section 113(d) of the CAA, 42 U.S.C. § 7413(d), and 40 C.F.R. part 19 provide that the EPA Administrator may assess a civil penalty of up to \$27,500 per day for each violation of the CAA that occurs between January 30, 1997 and March 15, 2004, up to \$32,500 per day for each violation that occurs between March 15, 2004, and January 12, 2009, and up to \$37,500 for each violation that occurs after January 12, 2009.

30. Based on an analysis of the penalty assessment criteria set forth in section 113(e) of the Act, 42 U.S.C. § 7413(e), EPA has determined an appropriate civil penalty to settle this matter. Respondent consents to the assessment of and agrees to pay the civil penalty as set forth in section V of this CAFO.

31. Respondent certifies that as of the date of its execution of this CAFO, its facility at 6801 Roosevelt Boulevard, Jacksonville, Duval County, Florida, is in compliance with the requirements of its title V permit and 40 C.F.R. part 63, Subpart GG addressed by this CAFO that are identified in paragraphs 20-25, above.

32. Compliance with this CAFO shall resolve the alleged violations referenced herein, and EPA hereby releases Respondent from all liability for the violations alleged herein. This CAFO shall not otherwise affect any liability of Respondent, if any, to the United States. Other than as expressed herein, EPA does not waive any right to bring an enforcement action against Respondent for violation of any federal or state statute, regulation or permit, to initiate an action for imminent and substantial endangerment, or to pursue criminal enforcement for allegations of violations not contained in this CAFO. Respondent reserves its rights and defenses regarding liability in any proceedings other than a proceeding by Complainant to enforce this CAFO.

33. EPA and Respondent agree to settle this matter by their execution of this CAFO. The parties agree that the settlement of this matter is in the public interest and that this CAFO is consistent with the applicable requirements of the CAA.

V. Final Order

34. Respondent shall pay a civil penalty of fifty two thousand, seven hundred and thirty-nine

35. Respondent shall pay the penalty identified in paragraph 34 **within 60 days** of the effective date of the CAFO utilizing a manual Military Interdepartmental Purchase Request (MIPR), DD-Form 448, an intergovernmental electronic payment procedure, which shall be faxed to:

Heather Russell
26 West Martin Luther King Drive
Mail Stop 002
Cincinnati, Ohio 45268
Fax Number: (513) 487-2063
Telephone Number: (513) 487-2044

Upon acceptance and then billing of the MIPR by EPA to the address provided in block 13 of the MIPR through the Intra-government Payment and Collection (IPAC) system, the payment will be remitted to EPA. Respondent shall use EPA Region 4's accounting location code 68010727.

36. At the time of payment, Respondent shall send a separate copy of the MIPR, DD Form 448, and a written statement that payment has been made in accordance with this CAFO, to the following persons at the following addresses:

Regional Hearing Clerk
U.S. EPA – Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Mr. Kevin Taylor
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Ms. Saundi Wilson (OEA)
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303

37. The penalty described in paragraph 34, shall represent civil penalties assessed by EPA within the meaning of section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and is not a tax-deductible expenditure for purposes of federal law.

38. No term or condition of this CAFO shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341.

39. EPA and Respondent shall bear their own costs and attorney fees in this matter.

40. This CAFO shall be binding upon the Respondent, its successors and assigns.

41. The following individual is authorized to receive service for EPA in this proceeding:

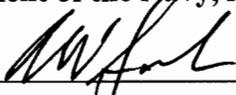
Mr. Kevin Taylor
Air Enforcement and EPCRA Branch
Air, Pesticides and Toxics Management Division
U.S. EPA - Region 4
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562-9134

42. Each undersigned representative of the parties to this CAFO certifies that he or she is fully authorized by the party represented to enter into this CAFO and legally bind that party to it.

VI. Effective Date

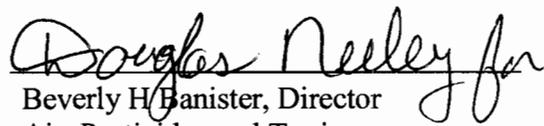
43. The effective date of this CAFO shall be the date on which the CAFO is filed with the Regional Hearing Clerk.

Department of the Navy, Naval Air Station, Jacksonville, Florida

By: 
R.W. Sanders, Captain
Naval Air Station
Department of the Navy

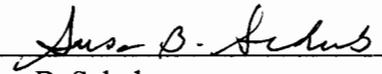
Date: 5/22/12

U.S. Environmental Protection Agency

By: 
Beverly H. Banister, Director
Air, Pesticides and Toxics
Management Division
Region 4

Date: 5/16/12

APPROVED AND SO ORDERED this 7th day of June, 2012.


Susan B. Schub
Regional Judicial Officer

CERTIFICATE OF SERVICE

I hereby certify that on the date set out below I filed the original and one copy of the foregoing Consent Agreement and Final Order and served a true and correct copy of the same, in the Matter of Naval Air Station, Department of Navy, Docket No. CAA-04-2011-1527(b), on the parties listed below in the manner indicated:

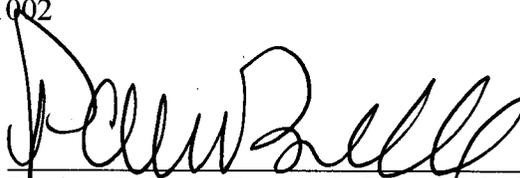
Kevin Taylor (Via EPA's internal mail)
Air, Pesticides and Toxics Management Division
Air and EPCRA Enforcement Branch
U.S. EPA Region 4
61 Forsyth Street
Atlanta, Georgia 30303

Bonnie Sawyer (Via EPA's internal mail)
Office of Air, Pesticides & Toxics Legal Support
Office of Environmental Accountability
U.S. EPA, Region 4
61 Forsyth Street
Atlanta, GA 30303

Mr. David Ford, Air Program Manager (Via Certified Mail
Naval Air Station Return Receipt Requested)
Department of the Navy
P.O. Box 50
Jacksonville, Florida 32212-1002

Date:

6-7-12



Patricia Bullock, Regional Hearing Clerk
United States Environmental Protection Agency, Region 4
Sam Nunn Atlanta Federal Center
61 Forsyth Street, S.W.
Atlanta, GA 30303
(404) 562-9511