



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

SEP 1 1 2008

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kerry Christofanelli
Chief Financial Officer
Radiac Abrasives, Inc.
1015 S. College
Salem, Illinois 62881

Dear Mr. Christofanelli:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Radiac Abrasives, Inc., CAA Docket No. CAA-05-2008-0035. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 1 5 2008.

Pursuant to paragraph 31 of the CAFO, Radiac Abrasives, Inc., must pay the \$53,440 civil penalty within 30 days of the date the CAFO was filed, SEP 1 5 2008. The check must display the case docket number, CAA-05-2008-0035, and the billing document number, 2750803A032.

Please direct any questions regarding this case to Eaton Weiler, Associate Regional Counsel, (312) 886-6041.

Sincerely,

Brent Marable
Chief
Air Enforcement and Compliance Assurance (IL/IN)

Enclosure

cc: Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency

Standard bcc's: official file copy w/attachment(s)
originating organization reading file w/attachment(s)

Other bcc's: E. Weiler - C-14J

Creation Date:	September 3, 2008
Filename:	C:\ Radiac CAFO
Legend:	ARD:AECAB:AECAS (IL/IN): SOM

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)
)
Radiac Abrasives, Inc.)
Salem, Illinois,)
)
Respondent.)
_____)

Docket No. CAA-05-2008-0035
Proceeding to Assess a Civil Penalty
Under Section 113(d) of the Clean Air
Act, 42 U.S.C. § 7413(d)

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 (CAA or the Act), 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 Air and Radiation Division, U. S. Environmental Protection Agency, Region 5.
3. Respondent is Radiac Abrasives, Inc. (Radiac), a company doing business in the State of Illinois.
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 entry of this CAFO and the assessment of the specified civil

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penalty, and agrees to comply with the terms of the 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. For the purposes of this CAFO, 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

Title V of the CAA and the Illinois State Implementation Plan

9. Sections 113(a)(1) and (a)(3) of the CAA, 42 U.S.C. §§ 7413(a)(1) and (a)(3), authorize the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Titles I or V of the CAA, or any rule promulgated, issued or approved under Titles I or V of the CAA.

10. Title V of the CAA, 42 U.S.C. §§ 7661 *et seq.*, establishes an operating permit program for major sources of air pollution. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), provides that each state must submit to the Administrator of EPA a permit program meeting the requirements of Title V.

11. Pursuant to Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), the Administrator promulgated regulations, subsequently codified at 40 C.F.R. Part 70, providing for the establishment of Title V permitting programs.

12. The regulation at 40 C.F.R. § 70.7(b) prohibits a source, which is subject to 40 C.F.R. Part 70, from operating except in compliance with a permit issued under a 40 C.F.R. Part

70 program.

13. The EPA promulgated final approval of the Illinois Title V operating permit program on December 4, 2001 (66 Fed. Reg. 62946), and the program became effective on that date.

14. The Illinois Environmental Protection Agency (IEPA) issued a Title V operating permit (Permit No. 95090063) to Radiac, effective on February 28, 2001.

15. On February 21, 1980, EPA approved Illinois Administrative Code (IAC) Sections 215.301 (entitled "Use of Organic Material") and 215.302 (entitled "Alternative Standard") (both previously codified as Rule 205(f)) as part of the federally enforceable Illinois State Implementation Plan (SIP). 45 Fed. Reg. 11472.

16. On September 9, 1994, EPA approved IAC Section 211.4690 (definition of "Photochemically Reactive Material") as part of the federally enforceable Illinois SIP. 59 Fed. Reg. 46567. IAC 211.4690 defines "Photochemically Reactive Material," in relevant part, as an organic material consisting of eight percent or more of any combination of aromatic compounds with eight or more carbon atoms to the molecule.

17. IAC Section 215.301 provides that "[n]o person shall cause or allow the discharge of more than 8 pounds per hour of organic material into the atmosphere from any emission source," except as provided, as relevant, in IAC Sections 215.301 and 215.302.

18. IAC Section 215.301 provides that "[i]f no odor nuisance exists the limitation of [IAC Section 215.301] shall apply only to photochemically reactive material." IAC Section 215.302 provides that emissions of organic material in excess of 8 pounds per hour are allowed if controlled to the levels and by the means specified in IAC Section 215.302, including any other air pollution control equipment capable of reducing by 85 percent or more the uncontrolled

organic material that would be otherwise emitted to the atmosphere.

19. Section 7.3.3(e) of Radiac's Title V permit provides that Kilns 1 and 2 are subject to IAC Section 215.301.

20. Section 7.4.3(e) of Radiac's Title V permit provides that Kilns 3 through 18 are subject to IAC Section 215.301.

Factual Allegations and Alleged Violations

21. Respondent owns and operates a facility located at 1015 South College Avenue, Salem, Illinois. The facility manufactures vitreous bonded abrasive products, such as grinding wheels and segments, for commercial and noncommercial applications.

22. As part of the manufacturing process, measured amounts of prepared abrasive grains are moistened and mixed with porosity media and bond material. Porosity media are used for creating voids in the finished grinding products and consist of filler materials, such as volatile organic materials, that are vaporized during firing in a kiln.

23. Respondent's Title V permit authorizes it to fire loads of grinding products in any of the 19 vitrified product kilns it is authorized to operate at the facility. Kilns 1 through 18 are periodic kilns with no emissions controls to reduce emissions of organic materials, and Kiln 19 is a continuous kiln with a thermal oxidizer to control emissions of organic materials. Each kiln has its own stack.

24. Loads of grinding products are fired in a kiln for cycle lasting up to 168 hours, at a maximum temperature of less than 2,400 degrees Fahrenheit. During the cycle, organic material is volatilized and vented to the kiln stack.

25. During a portion of the firing cycle, on average four hours per cycle, organic material emissions vented from each of the operated periodic kilns exceeded eight pounds per

hour for loads of grinding wheels and segments that exceeded 100 pounds (actual or "equivalent") of volatile organic material per load. The "equivalent" number of pounds of volatile organic material contained in segments is equal to 1.32 multiplied by the actual number of pounds of volatile organic material contained in the segments.

26. The organic material emissions constitute "photochemically reactive materials" as defined by IAC Section 211.4690, because they consist of eight percent or more of aromatic compounds with eight or more carbon atoms to the molecule.

27. From June 2003 until December 2007, Radiac placed 1069 loads of grinding wheels or segments that contained greater than 100 pounds of volatile organic material (actual or "equivalent") in a periodic kiln at the facility.

28. For each of these 1069 loads, Respondent violated condition 7.3.3(e) or 7.4.3(e) of its Title V operating permit, and IAC Section 215.301, by emitting greater than eight pounds per hour of photochemically reactive material from a kiln at the facility during a portion of time of the kiln cycle.

29. Since December 2007, Radiac has placed all loads of grinding wheels or segments that contained greater than 100 pounds of volatile organic material (actual or "equivalent") in the continuous kiln at the facility, from which the volatile organic material emissions are controlled by a thermal oxidizer at all times, and reduced by 85 percent or reduced to eight pounds per hour or less.

30. Except for loads containing 25 pounds or less of volatile organic material (actual or "equivalent"), since December 2007, for all loads of grinding wheels or segments that contained 100 pounds or less of volatile organic material (actual or "equivalent") and placed in a periodic kiln, Radiac has added a "low-temperature cycle," prior to raising the temperature of the kiln to a

maximum temperature of less than 2,400 degrees Fahrenheit. During the "low-temperature cycle," the loads are placed in a kiln for 18 hours at a maximum temperature of 300 degrees Fahrenheit.

Civil Penalty

31. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Respondent's cooperation in resolving this matter, Complainant has determined that an appropriate civil penalty to settle this action is \$53,440.

32. Within 30 days after the effective date of this CAFO, Respondent must pay a \$53,440 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. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 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, MO 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, NY 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.

- 33. A transmittal letter stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must send copies of the payment 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; and

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

- 34. This civil penalty is not deductible for federal tax purposes.
- 35. If Respondent does not pay timely the civil penalty, the EPA may bring an action to

collect any unpaid portion of the penalty 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.

36. 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 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 civil penalty amount and nonpayment penalties accruing from the beginning of the quarter.

General Provisions

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

38. The effect of the settlement described in paragraph 37, above, is conditioned upon the accuracy of the Respondent's representations to EPA, as memorialized in Paragraphs 29 and 30 of this CAFO.

39. The 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.

40. 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 37, above, compliance with this CAFO will not be a defense to any actions subsequently commenced

pursuant to federal laws administered by Complainant.

41. Respondent certifies that it is complying fully with its Title V operating permit and IAC Section 215.301.

42. 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).

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

44. 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.

45. Each party agrees to bear its own costs and attorneys’ fees in this action.

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

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Radiac Abrasives, Inc.

Docket No. CAA-05-2008-0035

Radiac Abrasives, Inc., Respondent

Aug 26, 2008
Date


Kerry Christofannelli
Chief Financial Officer
Radiac Abrasives, Inc.

United States Environmental Protection Agency, Complainant

9/4/08
Date


Cheryl L. Newton
Acting Director
Air and Radiation Division

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Radiac Abrasives, Inc.

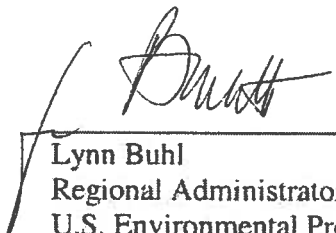
Docket No. CAA-05-2008-0035

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.

9-11-08

Date



Lynn Buhl
Regional Administrator
U.S. Environmental Protection
Agency, Region 5

In the Matter of Radiac Abrasives, Inc.
Docket No: CAA-05-2008-0035

CERTIFICATE OF MAILING

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2008-0035 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Radiac Abrasives, Inc. and to Radiac Abrasives, Inc., Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Kerry Christofanelli
Chief Financial Officer
Radiac Abrasives, Inc.
1015 S. College
Salem, Illinois 62881


Leo P. Dombrowski
Wildman, Harrold, Allen & Dixon LLP
225 West Wacker Drive
Chicago, Illinois 60606-1229

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

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 15th day of September 2008.


Betty Williams
Administrative Program Assistant
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 000601860958 - Kerry Christofanelli
CERTIFIED MAIL RECEIPT NUMBER: 70010320 000601860903 - Leo P. Dombrowski