



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

JUL 18 2018

REPLY TO THE ATTENTION OF:

VIA E-MAIL

Todd Siebenaler, Plant Manager
Spectro Alloys Corporation
13220 Doyle Path East
Rosemount, Minnesota, 55068
Email: tsiebenaler@spectroalloys.com

Dear Mr. Siebenaler:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Spectro Alloys Corporation, docket no. CAA-05-2018-0015. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on July 18, 2018.

Pursuant to paragraph 51 of the CAFO, Spectro Alloys Corporation must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

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

Sincerely,

A handwritten signature in cursive script that reads "Brian Dickens".

Brian Dickens, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/C-14J
Regional Hearing Clerk/E-19J
Padmavati Bending/C-14J
Sarah Kilgriff, MPCA (via e-mail)
Brent Rohne, MPCA (via e-mail)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:

Spectro Alloys Corporation
Rosemount, Minnesota,

Respondent.



Docket No. CAA-05-2018-0015

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 (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 Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Spectro Alloys Corporation (Spectro or Respondent), a corporation doing business in Minnesota.

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 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 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each State to develop and submit to EPA an operating permit program which meets the requirements of Title V.

10. EPA granted interim approval to Minnesota's Title V program on June 16, 1995, effective July 16, 1995. 60 Fed. Reg. 31637.

11. EPA proposed final approval of Minnesota's Title V program on October 30, 2001. 66 Fed. Reg. 54739.

12. EPA granted Minnesota final approval of its Title V Clean Air Act Permit Program, effective November 30, 2001. 66 Fed. Reg. 62967. 40 C.F.R. Part 70, Appendix A.

13. Title V regulations at 40 C.F.R. § 70.3 provide that the requirements of Part 70 apply to any major source located in a state that has received whole or partial approval of its Title V program.

14. Title V regulations at 40 C.F.R. § 70.6(b)(1) specify that all terms and conditions in a permit issued under a Part 70 program, including any provisions designed to limit a source's potential to emit, are enforceable by the EPA under the Act.

15. Under Section 112 of the CAA, the Administrator of EPA promulgated the General Provisions of the NESHAP at 40 C.F.R. Part 63, Subpart A; 40 C.F.R. § 63.1 – 63.16 on March 16, 1994. 59 Fed. Reg. 12430 (March 16, 1994).

16. 40 C.F.R. § 63.2 defines “major source” as, for pollutants other than radionuclides, 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, in the aggregate, 10 tons per year (tpy) or more of any Hazardous Air Pollutant (HAP) which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such HAPs, or such lesser quantity as the Administrator may establish by rule.

17. Effective March 23, 2000, EPA promulgated regulations governing the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production in 40 C.F.R. Part 63, Subpart RRR. 65 Fed. Reg. 15710 (March 23, 2000).

18. Pursuant to the NESHAP at 40 C.F.R. § 63.1501, the owner or operator of an existing affected source must comply with the requirements of Subpart RRR by March 24, 2003; and the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999, must comply with the requirements by March 24, 2000, or upon startup, whichever is later.

19. Subpart RRR applies to owners and operators of each secondary aluminum production facility and secondary aluminum processing unit, including new and existing furnaces.

20. A Group 1 furnace, as that term is defined at 40 C.F.R. § 63.1503, means a unit that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing.

21. The NESHAP, at 40 C.F.R. § 63.1505 (i)(1), requires that on and after the compliance date established by § 63.1501, the owner or operator of a Group 1 furnace at a secondary aluminum production facility which does not process only clean charge, that is a major source, must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.20 kilograms of particulate matter (PM) per milligram (0.40 pounds of PM per ton) of feed/charge.

22. The NESHAP, at 40 C.F.R. § 63.1505 (i)(4), requires that on and after the compliance date established by § 63.1501, the owner or operator of a Group 1 furnace at a secondary aluminum production facility which does not process only clean charge, that is a major source, must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.20 kilograms of hydrogen chloride (HCl) per milligram (0.40 pounds of HCl per ton) of feed/charge.

23. The NESHAP, at 40 C.F.R. § 63.1506 (a)(5), requires the owner or operator to operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control (GAPC) practices for minimizing emissions, at all times.

24. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$45,268 per day of violation up to a total of \$362,141 for violations that occurred after November 2, 2015 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

Factual Allegations and Alleged Violations

25. Spectro owns and operates the facility located at 13220 Doyle Path East, Rosemount, Minnesota (Facility).

26. Spectro emits dioxins and furans and hydrogen chloride, which are HAPs listed under Section 112(b) of the Act, 42 U.S.C. § 7412(b).

27. Spectro is a “major source” for HAP.

28. As a secondary aluminum production facility, Spectro’s facility is an emission source subject to the requirements of the Act, including 40 C.F.R. Part 63, Subpart RRR.

29. At the Facility, Spectro owns and operates a Furnace #3, which is a Group 1 furnace, as that term is defined at 40 C.F.R. § 63.1503, and associated baghouse. Furnace #3 and its associated baghouse are together designated emission unit EQUI 33 (EU001).

30. Minnesota Pollution Control Agency (MPCA) issued a final Title V Permit 03700066-002 to Spectro on August 2, 2016.

31. Spectro’s Permit 03700066-002 incorporates by reference the NESHAP for secondary aluminum production in Table A, including PM limits associated with Furnace #3.

32. Spectro’s Permit 03700066-002 and the NESHAP at 40 C.F.R. § 63.1505(i)(1) limit PM emissions from Furnace #3 to 0.20 kilograms of PM per milligram (0.40 pounds of PM per ton) of feed/charge.

33. Spectro’s Permit 03700066-002 and the NESHAP at 40 C.F.R. § 63.1505(i)(4) limit PM emissions from Furnace #3 to 0.20 kilograms of HCl per milligram (0.40 pounds of HCl per ton) of feed/charge.

34. Spectro’s Permit 03700066-002 and the NESHAP at 40 C.F.R. § 63.1505(a)(5) require the owner or operator to operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control (GAPC) practices for minimizing emissions, at all times.

35. On July 24, 2017, the Minnesota Pollution Control Agency forwarded EPA an email sent by Spectro, informing MPCA that on July 23, 2017 the Furnace 3 baghouse caught fire at approximately 8:40 P.M. (2017 Fire).

36. By email dated January 30, 2018, Spectro provided EPA with the semi-annual excess emission and malfunction report for the period from July 2017 to December 2017, which listed the 2017 Fire as a deviation (Deviation Report).

37. In the Deviation Report, Spectro stated “The filter media used to control the Furnace 3 emissions were damaged during the fire and could not effectively control emission while the fire was occurring. [...] Spectro believes it is best to assume there were exceedances in HCl, PM, and Opacity for one 3-hour block on July 23, 2017 from 9:00pm to 12:00am.”

38. In the Deviation Report, Spectro stated “Based on the investigation report from the Rosemount Fire Marshal, the fire is believed to be caused by a specific supplier’s scrap. The scrap was coated in a volatile grease or oil that created a large flame in the furnace well that propagated through the duct work to the baghouse.”

39. EPA issued a Finding of Violation (FOV) to Spectro on February 23, 2018, alleging Spectro emitted PM and HCl at Furnace #3 in excess of the limits contained in its Title V Permit and the NESHAP, and Spectro failed to follow GAPC at Furnace #3 as required by its Title V Permit and the NESHAP during July 23, 2017 during the 2017 Fire.

40. In response to the FOV, EPA and Spectro participated in a conference call on March 15, 2018.

41. Immediately prior to this call, Spectro provided EPA with a document titled “Spectro Alloys Baghouse Fire FOV Discussion Points” (Written Response).

Count I

42. Complainant incorporates paragraphs 1 through 41 of this Complaint, as if set forth in this paragraph.

43. Based on engineering estimates, EPA conservatively calculated the PM emissions from Furnace 3 at the time of the 2017 Fire to have exceeded the emission standard at 40 C.F.R. § 63.1505(i)(1) by at least 20 percent.

44. EPA alleges that Spectro emitted particulate matter in violation of limits contained in its Title V permit 03700066-002 and the NESHAP at 40 C.F.R. § 63.1505(i)(1) during the 2017 Fire.

Count II

45. Complainant incorporates paragraphs 1 through 41 of this Complaint, as if set forth in this paragraph.

46. Based on engineering estimates, EPA calculated the HCl emissions from Furnace 3 at the time of the 2017 Fire to have exceeded the emission standard at 40 C.F.R. § 63.1505(i)(4) by 2 percent.

47. EPA alleges that Spectro emitted HCl in violation of limits contained in its Title V permit 03700066-002 and the NESHAP at 40 C.F.R. § 63.1505(i)(4) during the 2017 Fire.

Count III

48. Complainant incorporates paragraphs 1 through 41 of this Complaint, as if set forth in this paragraph.

49. EPA alleges that Spectro failed to manage scrap, and detect and prevent the charging of harmful materials to Furnace 3 in a manner consistent with GAPC, as required by its Title V permit 03700066-002 and the NESHAP.

Civil Penalty

50. 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 cooperation by Spectro, Complainant has determined that an appropriate civil penalty to settle this action is \$27,400.

51. Within 30 days after the effective date of this CAFO, Respondent must pay a \$27,400 civil penalty 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.

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

Attn: Compliance Tracker (AE-18J)
R5aireinforcement@epa.gov
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Padmavati Bending (C-14J)
bending.padmavati@epa.gov
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

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

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

54. If Respondent does not pay timely the civil penalty 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.

55. 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 attorneys 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

56. Consistent with the Standing Order Authorizing E-Mail Service of Orders and Other Documents Issued by the Regional Administrator or Regional Judicial Officer under the Consolidated Rules, dated March 27, 2015, the parties consent to service of this CAFO by e-mail at the following e-mail addresses: bending.padmavati@epa.gov (for Complainant), and tsiebenaler@spectroalloys.com (for Respondent). The parties waive their right to service by the methods specified in 40 C.F.R. § 22.6.

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

58. 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.

59. 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 57, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

60. Respondent certifies that it is complying fully with 40 C.F.R. Part 63, Subpart RRR.

61. 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).

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


63. 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.

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

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

Spectro Alloys Corporation, Respondent

16 Jul 18
Date

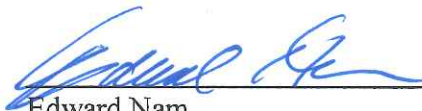


Todd Siebenaler, Plant Manager
Spectro Alloys Corporation

United States Environmental Protection Agency, Complainant

8/16/18

Date



Edward Nam

Director

Air and Radiation Division

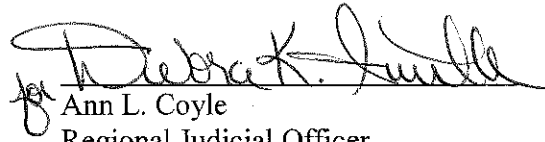
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Spectro Alloys Corporation
Docket No. CAA-05-2018-0015

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.

7/18/18
Date


Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order
In the matter of: Spectro Alloys Corporation
Docket Number: CAA-05-2018-0015

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number CAA-05-2018-0015, which was filed on July 18, 2018, in the following manner to the following addressees:

Copy by E-mail to Respondent: Todd Siebenaler
tsiebenaler@spectroalloys.com

Copy by E-mail to Attorney for Complainant: Padmavati Bending, Associate Regional Counsel
bending.padmavati@epa.gov

Copy by E-mail to Attorney for Respondent: Thaddeus Lightfoot
lightfoot.thad@dorsey.com

Copy by E-mail to Regional Judicial Officer: Ann Coyle
coyle.ann@epa.gov

Dated: July 18, 2018



LaDawn Whitehead
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5