



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

FEB - 4 2013

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

Richard Discher
Custom Fiberglass Molding, Inc.
E5880 Little River Road
Weyauwega, Wisconsin 54983

Re: Consent Agreement and Final Order

Dear Mr. Discher:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Custom Fiberglass Molding, Inc., Docket No. CAA-05-2013-0007. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on FEB - 6 2013.

Pursuant to paragraph 38 of the CAFO, Custom Fiberglass Molding, Inc. must pay the civil penalty within 30 days of FEB - 6 2013. Your check or electronic funds transfer must display the case name and case docket number CAA-05-2013-0007.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel, (312) 886-6831.

Sincerely,

A handwritten signature in cursive script that reads "Sara Breneman".

Sara Breneman
Air Enforcement and Compliance Assurance Branch (MI/WI)

Enclosure

cc: Regional Hearing Clerk/E-19J
Ann Coyle, Regional Judicial Officer/C-14J
Cynthia King/C-14J
Imelda Stamm, Northeast Region - Oshkosh

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2013-0007
)	
Custom Fiberglass Molding, Inc.)	Proceeding to Assess a Civil Penalty
Weyauwega, Wisconsin 54983)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

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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 Custom Fiberglass Molding, Inc. (CFM or Respondent), a corporation doing business at E5880 Little River Road, Weyauwega, Wisconsin (the facility).
4. Under 40 C.F.R. § 22.13(b), 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).
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(a) of the Act, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992 (57 Fed. Reg. 32295). These regulations are codified at 40 C.F.R. Part 70. EPA promulgated regulations governing the Federal operating permit program on July 1, 1996 (61 Fed. Reg. 34228). These regulations are codified at 40 C.F.R. Part 71

10. Section 503 of the Act, 42 U.S.C. § 7661b, and 40 C.F.R. § 70.5, set forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.

11. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), and 40 C.F.R. § 70.6, require that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan.

12. EPA gave interim approval of the Wisconsin Title V program on March 6, 1995 (60 Fed. Reg. 12128). EPA fully approved the Wisconsin Title V program on December 4, 2001 (66 Fed. Reg. 62951).

13. Under Section 112 of the CAA, 42 U.S.C. § 7412, EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for surface coating of plastic parts and products, and the implementing regulations at 40 C.F.R. Part 63, Subpart PPPP; and the NESHAP for reinforced plastics composites production, and the implementing regulations at 40 C.F.R. Part 63, Subpart WWWW.

14. Under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the Administrator of 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 of the CAA that occurred after March 15, 2004 through January 12, 2009, and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations of the CAA that occurred after January 12, 2009.

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

16. 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 CAFO.

Factual Allegations and Alleged Violations

17. At the facility, CFM manufactures fiberglass reinforced plastic composite parts, and also coats these parts.

18. CFM is the owner or operator of an existing affected facility and is required to comply with the requirements of the Subpart PPPP and Subpart WWWW NESHAPs at 40 C.F.R. §§ 63.4480 through 63.4581 and 63.5780 through 63.5935, respectively.

19. The Wisconsin Department of Natural Resources (WDNR) issued Title V Operation Permit 469084990-P10 (Title V Permit) to the facility on July 29, 2008. WDNR inspected the facility on several occasions and CFM cooperated fully with WDNR. Based on those inspections, CFM believed it was in compliance.

20. Part I.ZZZ.2.1 of the Title V Permit provides that the facility shall submit the summary of monitoring required in the permit to WDNR semi-annually and that these summaries shall meet the content requirements described in the Title V Permit Part II.D. At the facility, CFM failed to submit semiannual monitoring in violation of the requirements of its Title V Permit.

21. Part I.ZZZ.2.2 of the Title V Permit provides that the facility shall submit certifications of compliance to both WDNR and EPA annually and that the certifications of compliance shall meet the content requirements described in the Title V Permit Part II.N. At the facility, CFM failed to submit annual certifications of compliance in violation of the requirements of its Title V Permit.

22. Part II.L.2 of the Title V Permit requires that CFM comply with all conditions of the Title V permit. At the facility, CFM failed to comply with all conditions of the Title V Permit in violation of the requirements of its Title V permit.

23. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4510(b), NR 465.35(1)(b) and the Title V Permit Part I.D.5.1.b require the submission of an initial notification no later than April 19, 2005. CFM failed to submit its initial notification of the Subpart PPPP NESHAP

applicability in violation of the requirements of the Subpart PPPP NESHAP, NR 465.35(1)(b), and its Title V Permit.

24. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4510(c), NR 465.35(1)(c) and the Title V Permit Part I.D.5.1.c require the submission of notification of compliance status no later than May 30, 2008. CFM failed to submit a notification of compliance in violation of the requirements of the Subpart PPPP NESHAP, NR 465.35(1)(c), and its Title V Permit.

25. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4520(a)(1), NR 465.35(2)(a) and the Title V Permit Part I.D.6.1.a require the submission of semiannual compliance reports. The initial report was due no later than July 31, 2008, with subsequent reports due at six-month intervals. CFM failed to submit semiannual compliance reports in violation of the requirements of the Subpart PPPP NESHAP, NR 465.35(2)(a), and its Title V Permit.

26. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4530(a), NR 465.35(3)(a) and the Title V Permit Part I.D.7.1.a require retention of each notification required in Subpart PPPP, including supporting documentation. At the facility, CFM failed to retain notifications, including supporting documentation, in violation of the requirements of the Subpart PPPP NESHAP, NR 465.35(3)(a), and its Title V Permit.

27. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4530(c), NR 465.35(3)(c) and the Title V Permit Part I.D.7.1.c require retention of records pertaining to compliance options. At the facility, CFM failed to retain records pertaining to compliance options in violation of the requirements of the Subpart PPPP NESHAP, NR 465.35(3)(c), and its Title V Permit.

28. The Subpart PPPP NESHAP, 40 C.F.R. § 63.4550, NR 465.37(1) and the Title V Permit Part I.D.9.1 require the facility to conduct an initial compliance demonstration for the Emission Rate Without Add-On Controls Option since April 30, 2008. At the facility, CFM

failed to conduct an initial compliance demonstration for the Emission Rate Without Add-On Controls Option in violation of the requirements of the Subpart PPPP NESHAP, NR 465.37(1), and its Title V Permit.

29. The Subpart PPPP NESHAP, 40 C.F.R. §§ 63.4551 and 63.4552, NR 465.37(2) and (3) and the Title V Permit Part I.D.9.2 and 9.3, require the facility to demonstrate initial and continuous compliance for the Emission Rate Without Add-On Controls Option. At the facility, CFM failed to demonstrate initial compliance for the Emission Rate Without Add-On Controls Option in violation of the requirements of the Subpart PPPP NESHAP, NR 465.37(2) and (3), and its Title V Permit.

30. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5810, and the Title V Permit Part I.E.4 require the facility to use and demonstrate one of four compliance options. At the facility, CFM failed to use one of four compliance options to demonstrate compliance in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

31. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5835, and the Title V Permit Part I.E.5 require the facility to meet general compliance requirements. At the facility, CFM failed to meet the general compliance requirements in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

32. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5860(a), and the Title V Permit Part I.E.6.2 require the facility to demonstrate initial compliance by April 21, 2006. At the facility, CFM failed to demonstrate initial compliance in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

33. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5895, and the Title V Permit Part I.E.7 require the facility to monitor and collect data to demonstrate continuous compliance

by April 21, 2006. At the facility, CFM failed to monitor or collect data to demonstrate continuous compliance in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

34. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5900(a)(2), and the Title V Permit Part I.E.7.2.ii require the facility to demonstrate continuous compliance with organic HAP emissions requirements by April 21, 2006. At the facility, CFM failed to demonstrate continuous compliance with the organic HAP emissions requirements in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

35. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5905, and the Title V Permit Part I.E.8 require the facility to submit appropriate notifications, including an Initial Notification and a Notification of Compliance Status. At the facility, CFM failed to submit appropriate notifications, including an Initial Notification and a Notification of Compliance Status in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

36. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5910 and the Title V Permit Part I.E.9 require the facility to submit semiannual compliance reports. At the facility, CFM failed to submit semiannual compliance reports in violation of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

37. The Subpart WWWW NESHAP, 40 C.F.R. § 63.5915, and the Title V Permit Part I.E.10 require the facility to keep appropriate records. At the facility, CFM failed to keep appropriate records of the requirements of the Subpart WWWW NESHAP and the Title V Permit.

Civil Penalty

38. 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 CFM's cooperation and prompt return to compliance, Complainant has determined that an appropriate civil penalty to settle this action is \$28,598.75.

39. Within 30 days after the effective date of this CAFO, Respondent must pay a \$28,598.75 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

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

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

40. Respondent must send a notice of payment that states Respondent's name, the docket number of this CAFO and the billing document number to EPA at the following addresses when it pays the penalty:

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

Cynthia A. King (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5

77 W. Jackson Boulevard
Chicago, Illinois 60604

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

42. 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.

43. 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, under 42 U.S.C. § 7413(d)(5), 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.

General Provisions

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

45. 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.

46. 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 44, above,

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

47. Respondent certifies that it is complying fully with the Subparts PPPP and WWW NESHAPs, and any Title V permit requirements corresponding to those NESHAPs.

48. 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).

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

50. 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.

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

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

53. This CAFO is effective on the date that it is filed with the Regional Hearing Clerk.

Custom Fiberglass Molding, Inc., Respondent

1/8/13
Date

Richard Discher
Richard Discher
Custom Fiberglass Molding, Inc.

United States Environmental Protection Agency, Complainant

2/1/13
Date

George T. Czerniak
George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Custom Fiberglass Molding, Inc.
Docket No. CAA-05-2013-0007

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.

2-4-13

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

Consent Agreement and Final Order

In the Matter of: Custom Fiberglass Molding, Inc.

Docket No. CAA-05-2013-0007

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2013-0007 with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

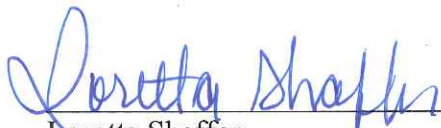
Richard Discher
Custom Fiberglass Molding, Inc.
E5880 Little River Road
Weyauwega, Wisconsin 54983

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I also certify that I delivered a copy of the CAFO by intra-office mail, addressed as follows:

Ann Coyle
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

On the 6 day of February 2013.


Loretta Shaffer
Administrative Program Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

7001 0320 0006 0192 0898