



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

MAY 21 2008

REPLY TO THE ATTENTION OF

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jeffrey C. Bencsik, President
Specco Industries, Inc.
13087 Main Street
Lemont, IL 60439

Specco Industries, Inc.
Lemont, Illinois

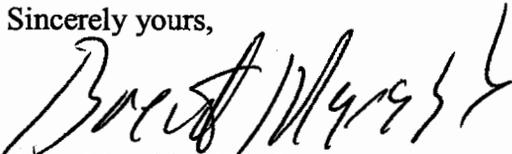
Dear Mr. Bencsik:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Specco Industries, Inc., CAA Docket No. CAA-05-2008-0018. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAY 21 2008.

Civil penalties must be paid in accordance with paragraph 28 of the CAFO, with the first installment due within 14 days from MAY 21 2008. Your check must display the case name, the docket number CAA-05-2008-0018, and the billing document number, 2750860A002.

Please direct any questions regarding this case to Louise Gross, Associate Regional Counsel, at (312) 886-6844.

Sincerely yours,


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

cc: Steven Murawksi
Baker & McKenzie LLP

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2008-0018
)	
Specco Industries, Inc.)	Proceeding to Assess a Civil Penalty
Lemont, Illinois,)	Under Section 113(d) of the Clean Air
)	Act, 42 U.S.C. § 7413(d)
Respondent.)	
_____)	

Consent Agreement and Final Order

I. Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (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 Acting Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5.

3. The Respondent, Specco Industries, Inc. (Specco or Respondent), is a corporation doing business in 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).

II. Jurisdiction and Waiver of Right to Hearing

5. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in the CAFO.

RECEIVED
REGIONAL OFFICE
MAY 21 PM 2:26

6. 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.

III. Statutory and Regulatory Background

7. Section 183(e) of the Act, 42 U.S.C. § 7511b(e), authorizes U.S. EPA to promulgate regulations establishing requirements regarding the manufacture of certain consumer or commercial products, the use of which may result in the release of Volatile Organic Compounds (VOCs).

8. Section 183(e)(6) of the Act, 42 U.S.C. §7511b(e)(6), states that any regulations established under Section 183(e) shall be treated, for purposes of enforcement, as a standard under Section 111 of the Act, 42 U.S.C. §7411, and any violation of such regulation shall be treated as a violation of a requirement of Section 111(e) of the Act.

9. Section 111 of the Act, 42 U.S.C. § 7411, establishes New Source Performance Standards (NSPS) for certain categories of sources identified by U.S. EPA that cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. Section 111(e) of the Act, 42 U.S.C. § 7411(e), states that after the effective date of a promulgated NSPS, it shall be unlawful for any owner or operator of a subject source to operate such source in violation of an applicable standard.

10. Under Section 183(e) of the Act, 42 U.S.C. § 7511b(e), on September 11, 1998, U.S. EPA promulgated National Volatile Organic Compound Emission Standards for Architectural Coatings at 40 C.F.R. Part 59, Subpart D (Architectural Coatings Standards).

11. The Architectural Coatings Standards apply to each "architectural coating," as that term is defined in 40 C.F.R. § 59.401, manufactured on or after September 13, 1999 for sale or distribution in the United States. 40 C.F.R. § 59.400(a).

12. The Architectural Coatings Standards, at 40 C.F.R. § 59.401, define “manufacturer” as a person that produces, packages, or repackages architectural coatings for sale or distribution in the United States.

13. The Architectural Coatings Standards, at 40 C.F.R. § 59.408(b), require each manufacturer and importer of any architectural coating subject to Subpart D to submit an initial notification report no later than September 13, 1999 or within 180 days after the date that the first architectural coating is manufactured or imported, whichever is later.

14. The Architectural Coatings Standards, at 40 C.F.R. § 59.402(a), require each manufacturer and importer of any architectural coating subject to Subpart D to ensure that the VOC content of the coating does not exceed the applicable limit in Table 1 of Subpart D.

15. Table 1 includes limits for concrete curing compounds and waterproofing sealers and treatments.

16. The Administrator of U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation, with a maximum of \$220,000, for violations of the Architectural Coatings Standards that occurred between January 31, 1997 and March 15, 2004, and may assess a civil penalty of up to \$32,500 per day for each violation, with a maximum of \$270,000, for violations that occurred on and after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended at 69 Fed. Reg. 7121 (February 13, 2004).

17. 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.

18. 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.

IV. Factual Allegations

19. Specco owns and operates a coating manufacturing facility located in Lemont, Illinois (the Lemont facility).

20. Since at least September 13, 1999, Specco has manufactured and distributed "architectural coatings," as defined in 40 C.F.R. § 59.401, at the Lemont facility.

21. At the Lemont facility, Specco has manufactured and distributed, among others, the following coatings: C-15, Cure and Seal, Supersheen Brown, Supersheen Clear, S-5 Siloxane 10%, S-5 Siloxane 20%, and W-5.

22. Specco did not submit an initial notification report until June 4, 2003.

23. The VOC content of the following coatings exceeded the limit for concrete curing compounds of 2.9lbs/gal. until September 2003: C-15, Cure and Seal, Supersheen Brown, Supersheen Clear. The VOC content of the following coatings exceeded the limit for waterproofing sealers and treatments of 5.0 lbs/gal. until July 2005: S-5 Siloxane 10%, S-5 Siloxane 20%, and W-5.

24. On August 14, 2003, U.S. EPA issued a Finding of Violation to Specco.

V. Stipulations

25. 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.

26. Respondent certifies that it is complying fully with the Architectural Coatings Standards at the Lemont facility.

27. Respondent consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

VI. Civil Penalty

28. Based on an analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), in determining the amount of the penalty assessed, U.S. EPA took into account (in addition to other factors as justice may require), the size of Specco's business, the economic impact of the penalty on Specco's business, Specco's full compliance history and good faith efforts to comply, the duration of the violations, the economic benefit of noncompliance and the seriousness of the violations. In accordance with these factors, U.S. EPA has determined that the following payment plan is reasonable: an initial payment of \$19,250 due 14 days from the entry of this CAFO; and three subsequent payments of \$19,250, due three months from the date of CAFO entry, six months from the date of CAFO entry, and nine months from the date of CAFO entry.

29. Specco shall pay the civil penalty payments required by paragraph 28, above, by sending cashier's or certified checks payable to the "Treasurer, United States of America," to (if sent by regular U.S. Postal Service mail):

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

or, if sent by express mail, to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines and Penalties
1005 Convention Plaza
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.

30. 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 a copy of the check 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

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

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

32. If Respondent does not pay timely the civil penalty, U.S. 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.

33. 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.

VII. General Provisions

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

35. The effect of the settlement described paragraph 34, above, is conditioned upon the accuracy of the Respondent's representation of compliance to U.S. EPA, as memorialized in paragraph 26, above.

36. The CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

37. 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 34, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by Complainant.

38. This CAFO constitutes an "enforcement response," as that term is used in U.S. 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).

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

40. 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.

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

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

Specco Industries, Inc., Respondent

Date 4/16/08

Jeffrey Bencsik
Jeffrey Bencsik, President
Specco Industries, Inc.

United States Environmental Protection Agency, Complainant

Date 5/15/08

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

CONSENT AGREEMENT AND FINAL ORDER

In the Matter of:

Specco Industries, Inc.

Docket No.

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.

5-20-08

Date

Richard C. Kar for

Bharat Mathur
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5

RECEIVED
REGIONAL HEARING CLERK
MAY 21 2008

In the Matter of: Specco Industries, Inc.

Docket No. CAA-05-2008-0018

Certificate of Service

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order (CAFO), was sent to Specco Industries, Inc. was filed with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; and that a second original of the CAFO was sent Certified Mail, Return Receipt Requested, to:

Jeffrey Bencsik, President
Specco Industries, Inc.
13087 Main Street
Lemont, IL 60439

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 this 21st day of May, 2008.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320000601861429

RECEIVED
MAY 21 4 23 28
REGIONAL HEARING CLERK
REGION 5
U.S. ENVIRONMENTAL PROTECTION AGENCY
77 WEST JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604