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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) **Docket No. CAA-2001-0021**
)
Tri-Star Cabinet & Top Co.) **Proceeding to Assess an**
New Lenox, Illinois) **Administrative Penalty**
) **under Section 113(d) of the**
) **Clean Air Act,**
 Respondent.) **42 U.S.C. § 7413(d)**
)
_____)

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 28, 2001, U.S. EPA filed the complaint in this action against Respondent, Tri-Star Cabinet & Top Co., alleging in six counts that Respondent violated certain National Emission Standards for Wood Furniture Manufacturing Operations set forth in 40 C.F.R. Subpart JJ (Wood Furniture NESHAP) at its facility in New Lenox, Illinois. U.S. EPA further alleged in one count of the complaint that Respondent failed to comply with the State of Illinois State Implementation Plan (SIP) requirement set forth in Section 218.204, Chapter 35 of the Illinois Administrative Code, requiring wood furniture coaters to use compliant coatings.

3. Complainant and Respondent have engaged in settlement discussions since September 24, 2001 in which Respondent has asserted that its emissions have remained under the hazardous air pollutants (HAPs) area source limits set forth in 40 C.F.R. § 63.800(b)(3) since the applicable compliance date.

Stipulations

4. Respondent owns and operates a wood furniture manufacturing facility that includes coating lines and adhesive application.

5. Respondent's facility is located at 1000 South Cedar Street, New Lenox, Illinois 60451 (Respondent's Facility).

6. Respondent admits the jurisdictional allegations of the Complaint and Respondent neither admits nor denies the factual allegations in the complaint.

7. Respondent waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

8. Respondent certifies that Respondent's Facility is emitting no more than 5 tons of any one HAP or 12.5 tons of any combination of HAPs per rolling 12-month period and Respondent further certifies that it is retaining monthly records of its HAP usage, including a record of HAP emissions on a rolling 12-month period basis.

9. Respondent certifies that it is in compliance with the State SIP requirements for wood furniture coaters requiring use of compliant coatings and adhesives.

10. The parties consent to the terms of this Consent Agreement and Final Order (CAFO).

11. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

12. In consideration of the size of Respondent's business and Respondent's cooperation in resolving this matter, U.S. EPA agrees to mitigate the proposed penalty of \$ 60,500 to \$ 30,250.

13. Respondent must pay the \$ 30,250 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

14. Respondent must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

15. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on

the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

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, Illinois 60604-3590

Randa Bishlawi, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

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

17. 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.

18. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). Respondent will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past

due. Respondent will 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.

General Provisions

19. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint under this Order.

20. Nothing in this CAFO restricts U.S. EPA's authority to seek Respondent's compliance with the Act and other applicable laws and regulations.

21. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

22. 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).

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

24. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement

for the party whom he or she represents and to bind that party to its terms.

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

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

U.S. Environmental Protection
Agency, Complainant

Date: 11-28-01

By: 

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

Tri-Star Cabinet & Top Co. Respondent

Date: 11/20/01

By: 

Cosmo A. Mischia, Secretary
Tri-Star Cabinet & Top Co.

Consent Agreement and Final Order
Tri-Star Cabinet & Top, Co.
Docket No. CAA-5-2000-008

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: *November 28, 2001*

David Ullrich

David Ullrich
Deputy Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF FILING AND MAILING

In the Matter of Tri-Star Cabinet & Top Company
Docket No: CAA-05-2001-0021

I, Betty Williams, do hereby certify that the original of the foregoing Consent Agreement and Final Order was hand delivered to the Regional Hearing Clerk, Region 5, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604 and that correct copies, were mailed first-class, postage prepaid, certified mail, return receipt requested, to the Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

Cosmo A. Misischia, Secretary
Tri Star Cabinet & Top Company, Inc.
1000 South Cedar Street
New Lenox, Illinois 60647

I also certify that a copy of the Consent Agreement and Final Order was sent by First Class Mail to:

Julie Armitage, Acting Section Manager
Compliance and Systems Management
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 29th Day of November, 2001.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70993400000095957104