

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

00 SEP -8 12:50

IN THE MATTER OF:) Docket No. CAA-5-2000-005
)
Norbrook Plating, Inc.)
Warren, Michigan,)
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 February 29, 2000, U.S. EPA filed the complaint in this action against Respondent Norbrook Plating, Inc. The complaint alleges that Norbrook Plating violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emissions Standards (NESHAPs) for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R., Subpart N (plating NESHAP) at its facility in Warren, Michigan. The complaint also alleges that Norbrook Plating violated Section 110 of the Act, 42 U.S.C. §§ 7410, and the State Implementation Plan for the State of Michigan.

3. Norbrook Plating filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Norbrook Plating admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. Norbrook Plating 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).

6. Norbrook Plating certifies that it is complying fully with the plating NESHAP and the Michigan SIP.

7. The parties consent to the terms of this consent agreement and final order (CAFO).

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

Civil Penalty

9. In consideration of additional information that Respondent has submitted to the U.S. EPA since the time of the Complaint, U.S. EPA agrees to mitigate the proposed penalty of \$46,900 to \$7,500.

10. Norbrook Plating must pay the \$7,500 civil penalty by cashier's or certified checks payable to the "Treasurer, United States of America." Norbrook Plating shall pay the \$7,500 civil

penalty in three equal installments, due as follows: the first installment of \$2,500 will be due within 30 days after the effective date of this CAFO; the second installment of \$2,500 will be due on December 31, 2000; the third and final installment will be due on March 31, 2001.

11. Norbrook Plating must send the checks to:

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

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany each payment. Respondent must write the case docket number and the billing document number on the face of each check. Respondent must send copies of each 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

James Morris
Associate Regional Counsel
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

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

14. If Norbrook Plating 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.

15. 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). Norbrook Plating will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Norbrook Plating 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.

16. Norbrook Plating must pay any penalties provided for in paragraph 15., above, within 15 days of receiving U.S. EPA's written demand for the penalties. Norbrook Plating will use the method of payment specified in paragraphs 10. through 12., above,

and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

General Provisions

17. This CAFO settles U.S. EPA's claims for civil penalties for all violations of the plating NESHAPs and the Michigan SIP that occurred before February 29, 2000.

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

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

20. 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 Norbrook Plating's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

21. The terms of this CAFO bind Norbrook Plating, and its successors, and assigns.

22. 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.

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

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

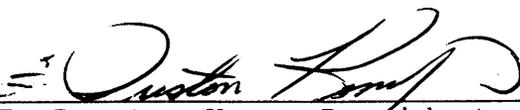
U.S. Environmental
Protection Agency, Complainant

Date: 9-1-00

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

Norbrook Plating, Inc., Respondent

Date: 8/21/00

By: 
F. Preston Kemp, President
Norbrook Plating, Inc.

CONSENT AGREEMENT AND FINAL ORDER
Norbrook Plating
Docket No. CAA-5-2000-005

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: *September 7, 2000*

David A. Allard
Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-2000-005 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 Norbrook Plating, Inc. and Norbrook Plating's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

F. Preston Kemp, President
Norbrook Plating, Inc.
1140 East Nine Mile Road
Warren, Michigan 48089

Christopher Dunsky
Honigman Miller Schwartz and Cohn
2290 First National Building
660 Woodward Avenue
Detroit, Michigan 48226-3583

on the 8th day of September, 2000.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: P 664 397 047