

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	Docket No. CAA-5-99-013
)	
Coleman Trucking, Inc.)	Proceeding to Assess an
Cleveland, Ohio,)	Administrative Penalty
)	under Section 113(d) of the
Respondent.)	Clean Air Act,
_____)	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 June 28, 1999, U.S. EPA filed the complaint in this action against Respondent Coleman Trucking, Inc. (Coleman). The complaint alleges that Coleman violated Section 112 of the Act, 42 U.S.C. § 7412, and 40 C.F.R. §§ 61.145(c)(1) and 61.145(c)(6)(I) while conducting asbestos removal at four residential buildings, which were owned by the Ohio Department of Transportation (ODOT) and were part of the ODOT Northeast Region Route 30 Highway Extension Project in Stark County, Ohio. The complaint proposed a civil penalty of \$55,000.

3. Coleman filed an answer on July 22, 1999, in which it admitted or denied the allegations of the complaint, and

requested a hearing, under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. Coleman admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint, except as stated in its July 22, 1999 answer.

5. Coleman 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. Coleman certifies that it is complying fully with Section 112 of the Act, 42 U.S.C. § 7412, and 40 C.F.R. Part 61, Subpart M, National Emission Standards for Asbestos.

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 Coleman's efforts to achieve compliance and new information presented by Coleman during settlement negotiations, U.S. EPA agrees to mitigate the proposed penalty of \$55,000 to \$25,000.

10. Coleman must pay the \$25,000 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.

11. Coleman must send the check 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 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, (E-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

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

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

14. If Coleman does not timely pay 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). Coleman will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Coleman 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

16. This CAFO constitutes a settlement by Complainant of the alleged facts, violations, and legal claims, for the proposed civil penalties sought pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d), U.S. EPA's Clean Air Act Stationary Source Penalty Policy, dated October 25, 1991, and the Asbestos Demolition and Renovation Civil Penalty Policy (Appendix III), dated May 5, 1992.

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

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

19. The terms of this CAFO bind Coleman, and its successors, and assigns.

20. 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.

21. Each party agrees to bear its own costs and fees in connection with the action resolved by this CAFO.

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

**U.S. Environmental Protection
Agency, Complainant**

Date: _____

6/6/00

By: _____



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

Coleman Trucking, Inc., Respondent

Date: _____

5-19-00

By: _____



Seab Coleman, Chief Executive
Coleman Trucking, Inc.

CONSENT AGREEMENT AND FINAL ORDER
Coleman Trucking, Inc.
Docket No. CAA-5-99-013

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: *June 7, 2000*

for Robert Sprungis
Francis X. Lyons
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

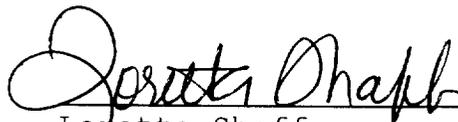
I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-99-013 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Seab Coleman, Chief Executive
Coleman Trucking, Inc.
3580 East 93rd Street
Cleveland, Ohio 44105

and

Terry Schnell, Esquire
Doepken, Keevican & Weiss
58th Floor, USX Tower
600 Grant Street
Pittsburgh, Pennsylvania 15219-2703

on the 8th day of June, 2000.



Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400000096016626