



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

MAY 18 2005

REPLY TO THE ATTENTION OF  
(AE-17J)

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Richard L. Keyser  
Chief Executive Officer  
100 Grainger Parkway  
Lake Forest, Illinois 60045

Dear Mr. Keyser:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves The Matter of W.W. Grainger, Inc., Docket No. CAA-05-2004-0052. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on           MAY 18 2005          .

Pursuant to paragraph 11 of the CAFO, W.W. Grainger must pay the civil penalty within 30 days of the date the CAFO was filed. Your check must display the case docket number, CAA-05-2004-0052, and the billing document number, 050305024.

Please direct any questions regarding this case to Mony Chabria, Associate Regional Counsel, 312-886-6842.

Sincerely yours,

*Linda Hamsing*

Linda Hamsing, Chief  
MI/WI Section

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

RECEIVED  
MAY 18 2005  
REGION 5

IN THE MATTER OF: ) Docket No. CAA-05-2004-0052  
)  
W.W. Grainger, Inc. ) Proceeding to Assess an  
Lake Forest, 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, 2004, U.S. EPA filed the complaint in this action against Respondent W.W. Grainger, Inc. (Respondent or Grainger). The complaint alleges that Grainger violated Section 610 of the Act, 42 U.S.C. § 7671i, and 40 C.F.R. §§ 82.64(d), 82.68(d), 82.64(e), and 82.68(c), at its facility in Lake Forest, Illinois.

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

**Stipulations**

4. Grainger admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint, other than those admitted in its answer.

5. Grainger 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. Grainger does not admit to any fault or liability regarding the allegations in the Complaint. By signing this CAFO, Grainger is not waiving any rights or defenses it has or may have in connection with any other action brought by U.S. EPA. Grainger also retains the right to assert in any subsequent action or proceeding that any future conditions identical or similar to those alleged in the Complaint do not violate the Clean Air Act or any regulation promulgated thereunder.

7. Without admitting liability for, or previous violation of, the Act or its regulations, Grainger agrees that, to the best of its knowledge: (A) it is presently in compliance with 40 C.F.R. § 82.64(d) and Section 610 of the Act, 42 U.S.C. § 7671i, pertaining to the sale and distribution of nonessential products identified in 40 C.F.R. § 82.70(a) or § 82.70(c); (B) its website contains the commercial user restriction information per 40 C.F.R. § 82.68(d) for Class II substance-containing electronic cleaning products; and (C) it is presently verifying the

commercial status of purchasers of its Class II substance-containing aerosol or pressurized dispensers of cleaning fluid for electronic or photographic equipment and not selling such products to those who do not provide proof of being a commercial entity, as required by 40 C.F.R. §§ 82.64(e) and 82.68(c) and Section 610 of the Act, 42 U.S.C. § 76711.

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

9. U.S. EPA believes that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

#### **Civil Penalty**

10. In consideration of the factors listed in Section 113(e) of the Act, 42 U.S.C. § 7413(e), U.S. EPA agrees to mitigate the proposed penalty of \$368,547 to \$177,156.

11. Grainger must pay the \$177,156 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.

12. Grainger must send the check to:

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

13. 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

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

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

15. If Grainger 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.

16. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C.

§ 3717. Grainger will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due.

Grainger 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**

17. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

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

19. This CAFO does not affect Grainger'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 Grainger's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

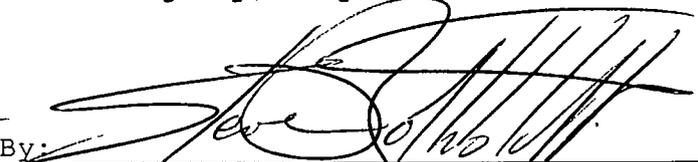
21. The terms of this CAFO bind Grainger, and its successors, and assigns.

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.

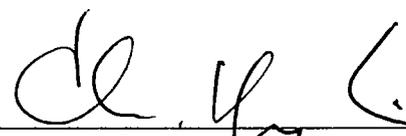
23. Each party agrees to bear its own costs and fees in this action.

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

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

Date: 5/12/2005 By:   
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

W.W. Grainger, Inc., Respondent

Date: 4-27-05 By:   
Name: Y.C. Chen  
Title: Sr. V.P., Supply Chain Management  
W.W. Grainger, Inc.

CONSENT AGREEMENT AND FINAL ORDER  
W.W. Grainger, Inc.  
Docket No. CAA-05-2004-0052

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:

5/16/2005

*for Elina Speisman*  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

RECEIVED  
MAY 18 2005

05 MAY 18 P2:21

RECEIVED  
MAY 18 2005

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2004-0052 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 W.W. Grainger, Inc., and W.W. Grainger's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Richard L. Keyser  
Chief Executive Officer  
W.W. Grainger, Inc.  
100 Grainger Parkway  
Lake Forest, Illinois 60045

James A. Vroman  
Jenner & Block LLP  
One IBM Plaza  
Chicago, Illinois 60611

RECEIVED  
REGIONAL HEARING CLERK  
MAY 18 2005  
05 MAY 18 P2:21  
U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

on the 18<sup>th</sup> day of May, 2005.

Shanee Rucker  
Shanee Rucker  
AECAS (MI/WI Section)

CERTIFIED MAIL RECEIPT NUMBER: 7001032000061558 6028