



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

SEP 29 2004

CERTIFIED MAIL

REPLY TO THE ATTENTION OF

RETURN RECEIPT REQUESTED

Paul Curtis, President  
Spectro Alloys Corporation  
13220 Doyle Path  
Rosemount, MN 55068

Re: In the Matter of Spectro Alloys  
Corporation  
CAA Docket No. **CAA-05-2004 0053**

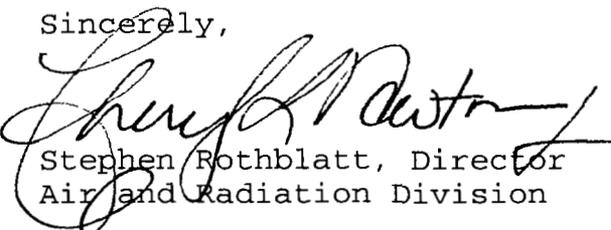
Dear Mr. Curtis:

I have enclosed a complaint filed against Spectro Alloys Corporation, under Section 113(d) of the Clean Air Act, 42 U.S.C. § 7413(d). The complaint alleges violations of Section 112 of the Clean Air Act, 42 U.S.C. § 7412, and the regulations at 40 C.F.R. Part 63, Subpart RRR.

As provided in the complaint, if you would like to request a hearing, you must do so in your answer to the complaint. Please note that if you do not file an answer with the Regional Hearing Clerk within 30 days of your receipt of this complaint, a default order may be issued and the proposed civil penalty will become due 30 days later.

In addition, whether or not you request a hearing, you may request an informal settlement conference. If you wish to request a conference, or if you have any questions about this matter, please contact, Mony Chabria, Associate Regional Counsel (C-14J), 77 West Jackson Boulevard, Chicago, Illinois 60604, at (312) 886-6842.

Sincerely,



Stephen Rothblatt, Director  
Air and Radiation Division

Enclosures

cc: Ann Foss, Enforcement Manager  
Minnesota Pollution Control Agency

Robert Beresford, Enforcement/Compliance Unit  
Minnesota Pollution Control Agency

Kevin Johnson  
Lindquist & Vennum

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:

) Docket No. **CAA-05-2004 0053**

)  
Spectro Alloys Corporation  
Rosemount, Minnesota,

) Proceeding to Assess a  
) Civil Penalty under  
) Section 113(d) of the  
) Clean Air Act,  
) 42 U.S.C. § 7413(d)

Respondent.

)  
\_\_\_\_\_ )

RECEIVED  
REGIONAL HEARING  
CLIPAK  
04 SEP 29 P2:23  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
REGION 5

Administrative Complaint

1. This is an administrative proceeding to assess a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, Chicago, Illinois.

3. The Respondent is Spectro Alloys Corporation (Respondent or Spectro), a corporation doing business in Minnesota.

Statutory and Regulatory Background

4. Under Section 112(d) of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 et seq. (Secondary Aluminum Production NESHAP or Subpart RRR).

5. The Secondary Aluminum Production NESHAP applies to the owner or operator of each secondary aluminum production facility.

6. "Affected source" is defined at 40 C.F.R. § 63.2 as

"the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a section 112(c) source category or subcategory for which a section 112(d) standard or other relevant standard is established pursuant to section 112 of the Act. Each relevant standard will define the "affected source," as defined in this paragraph unless a different definition is warranted...."

7. The Secondary Aluminum Production NESHAP states at 40 C.F.R. § 63.1500(b)(2) that "[t]he requirements of this subpart apply to the following affected sources, located at a secondary aluminum production facility that is a major source of hazardous air pollutants (HAPs) as defined in § 63.2: . . . (2) Each new and existing scrap dryer/delacquering kiln/decoating kiln; . . . and (8) Each new and existing secondary aluminum processing unit."

8. "Secondary aluminum production facility" is defined at 40 C.F.R. § 63.1503 as "any establishment using clean charge, aluminum scrap, or dross from aluminum production, as the raw material and performing one or more of the following processes: scrap shredding, scrap drying/delacquering/decoating, thermal chip drying, furnace operations (i.e. melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling."

9. "Major source" is defined at 40 C.F.R. § 63.2 as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons

per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants...."

10. "Existing source" is defined at 40 C.F.R. § 63.2 as "any affected source that is not a new source."

11. "New source" is defined at 40 C.F.R. § 63.2 as "any affected source the construction or reconstruction of which is commenced after the Administrator first proposes a relevant emission standard under this part...."

12. The Secondary Aluminum Production NESHAP, at 40 C.F.R. § 63.1501(a), requires that the owner or operator of an existing affected source comply with the requirements of Subpart RRR by March 24, 2003.

13. The Secondary Aluminum Production NESHAP, at 40 C.F.R. § 63.1501(b), requires that the owner or operator of a new affected source that commences construction or reconstruction after February 11, 1999 comply with the requirements of Subpart RRR by March 24, 2000 or upon startup, whichever is later.

14. "Hazardous air pollutant" is defined at 40 C.F.R. § 63.2 as "any air pollutant listed in or pursuant to section 112(b) of the Act."

15. Hydrochloric acid, dibenzofurans, and 2,3,7,8-tetrachlorodibenzo-p-dioxin are listed as hazardous air pollutants in Section 112(b) of the Act, 42 U.S.C. 7412(b).

16. "Scrap dryer/delacquering kiln/decoating kiln" is defined at 40 C.F.R. § 63.1503 as "a unit used primarily to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from aluminum scrap (including used

beverage containers) prior to melting."

17. "Aluminum scrap" is defined at 40 C.F.R. § 63.1503 as "fragments of aluminum stock removed during manufacturing, manufactured aluminum articles or parts rejected or discarded and useful only as material for reprocessing, and waste and discarded material made of aluminum.

18. An existing "Secondary aluminum processing unit (SAPU)" is defined at 40 C.F.R. § 63.1503 as "all existing group 1 furnaces and all existing in-line fluxers within a secondary aluminum production facility."

19. "Group 1 furnace" is defined at 40 C.F.R. § 63.1503 as "a furnace of any design that melts, holds, or processes aluminum that contains paint, lubricants, coatings, or other foreign materials with or without reactive fluxing, or processes clean charge with reactive fluxing."

20. "HCl" is defined at 40 C.F.R. § 63.1503, for the purposes of Subpart RRR, as "emissions of hydrogen chloride that serve as a surrogate measure of the total emissions of the HAPs hydrogen chloride, hydrogen fluoride and chlorine.

21. "Dioxins and furans" is defined at 40 C.F.R. § 63.1503 as "tetra-, penta-, hexa- and octachlorinated dibenzo dioxins and furans."

22. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for emission violations that occurred between January 31, 1997 and March 15, 2004, and up to \$32,500 per day of violation up to a total of \$270,000 for emission

violations that occurred March 15, 2004, and later, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, as amended by 69 Fed. Reg. 7121 (Feb. 13, 2004).

23. The Administrator may assess a penalty greater than the limitations identified above, under Section 113(d)(1), where the Administrator and the Attorney General of the United States jointly determine that a matter involving a larger penalty is appropriate for an administrative penalty action. 42 U.S.C. § 7413(d)(1) and 40 C.F.R. Part 19, as amended by 69 Fed. Reg. 7121 (Feb. 13, 2004).

24. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that this matter involving a penalty greater than the limitations identified above, is appropriate for an administrative penalty action.

25. 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 Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

26. 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 complaint.

### General Allegations

27. Spectro owns and/or operates a secondary aluminum facility at 13220 Doyle Path Road, Rosemount, Minnesota (the facility).

28. The facility is an establishment that uses clean charge, aluminum scrap, and/or dross from aluminum production, as raw material and performs scrap shredding, scrap drying/delacquering/decoating, and/or furnace operations.

29. The facility is a "secondary aluminum production facility" as that term is defined at 40 C.F.R. § 63.1503.

30. Hydrochloric acid, dibenzofurans, and 2,3,7,8-tetrachlorodibenzo-p-dioxin are emitted from the facility.

31. The facility emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of a hazardous air pollutant or 25 tons per year or more of a combination of hazardous air pollutants.

32. The facility is a "major source" as that term is defined at 40 C.F.R. § 63.2.

33. The facility is subject to the requirements of 40 C.F.R. Part 63, Subpart RRR.

34. At the facility, Spectro owns and operates two furnaces which were constructed prior to February 11, 1999 and are known as furnaces #1 and #3. The two furnaces are vented to a common control device.

35. Spectro's furnaces #1 and #3 melt, hold, or process aluminum that contains paint, lubricants, coatings and other foreign materials with reactive fluxing.

36. Spectro's furnaces #1 and #3 are "group 1 furnaces" as that term is defined at 40 C.F.R. § 63.1503.

37. Spectro's furnaces #1 and #3 are equipped with an add-on pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse, and the continuous addition of lime upstream of the baghouse.

38. Spectro's furnaces #1 and #3 are equipped with a "fabric filter" and use "lime-injection" as those terms are defined at 40 C.F.R. § 63.1503.

39. Spectro's furnaces #1 and #3 are "existing sources" as that term is defined at 40 C.F.R. § 63.2.

40. Spectro's furnaces #1 and #3 are "affected sources" as that term is defined at 40 C.F.R. § 63.2.

41. At the facility, Spectro owns and operates a scrap dryer which was constructed after February 11, 1999, and is known as scrap dryer #1.

42. At the facility, Spectro owns and operates a scrap dryer which was constructed before February 11, 1999, and is known as scrap dryer #3.

43. Spectro's scrap dryers #1 and #3 are used primarily to remove various organic contaminants such as oil, paint, lacquer, ink, plastic, and/or rubber from aluminum scrap prior to melting.

44. Spectro's scrap dryers #1 and #3 are each equipped with air pollution control devices that use controlled flame combustion to convert combustible materials to noncombustible gases.

45. Spectro's scrap dryers #1 and #3 are each equipped an "afterburner," as that term is defined at 40 C.F.R. § 63.1503.

46. Spectro's scrap dryers #1 and #3 are each equipped with an add-on pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse, and the continuous addition of lime upstream of the baghouse.

47. Spectro's scrap dryers #1 and #3 are each equipped with a "fabric filter" with "lime-injection" as those terms are defined at 40 C.F.R. § 63.1503.

48. Spectro's scrap dryers #1 and #3 are each a "scrap dryer/delacquering kiln/decoating kiln" as that term is defined at 40 C.F.R. § 63.1503.

49. Spectro's scrap dryer #1 is a "new source" as that term is defined at 40 C.F.R. § 63.2.

50. Spectro's scrap dryer #3 is an "existing source" as that term is defined at 40 C.F.R. § 63.2.

51. Spectro's scrap dryers #1 and #3 are each an "affected source" as that term is defined at 40 C.F.R. § 63.2.

52. On February 5-6, 2004, Spectro conducted an initial performance test on its scrap dryer #1.

53. On February 11-14, 2003, Spectro conducted initial performance tests on its furnaces #1 and #3, and scrap dryer #3.

#### **Count I**

54. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

55. The regulation at 40 C.F.R. § 63.1505(d)(1), requires

that, on and after the compliance date established by 40 C.F.R. § 63.1501, the owner or operator of a scrap dryer/delacquering kiln/decoating kiln must not discharge or cause to be discharged to the atmosphere emissions in excess of 0.25 micrograms of D/F per Mg of feed/charge at a secondary aluminum production facility that is a major or area source.

56. The regulation at 40 C.F.R. § 63.1505(e)(1), allows the owner or operator of a scrap dryer/delacquering kiln/decoating kiln equipped with an afterburner having design residence time of at least 1 second and operated at a temperature of at least 750°C (1400°F) at all times to choose to comply with an alternative limit of 5.0 micrograms of D/F per Mg of feed/charge at a secondary aluminum production facility that is a major or area source.

57. Spectro started up its scrap dryer #1 on November 5, 2003.

58. The afterburner on Spectro's scrap dryer #1 has a design residence time of at least 1 second and is operated at a temperature of at least 750°C (1400°F) at all times.

59. On February 5-6, 2004, Spectro's scrap dryer #1 emitted an average of 38.657 micrograms of D/F per megagram (Mg) of feed/charge.

60. On February 5-6, 2004, emissions from the scrap dryer #1 at the facility were in excess of the 5.0 micrograms of D/F per Mg of feed/charge limit set forth in 40 C.F.R. § 63.1505(e)(1) for scrap dryer/delacquering kiln/decoating kiln equipped with an afterburner having a design residence time of at

least 1 second and the afterburner is operated at a temperature of at least 750°C (1400°F) at all times.

61. On March 17, 2004, Spectro ceased operation of scrap dryer #1 in order to make modifications and adjustments.

62. On July 1-2, 2004, Spectro conducted performance emission testing for D/F on its scrap dryer #1.

63. On July 1-2, 2004, emissions from the scrap dryer #1 at the facility were below the 5.0 micrograms of D/F per Mg of feed/charge limit set forth in 40 C.F.R. § 63.1505(e)(1).

64. From November 5, 2003, until March 17, 2004, Spectro was in violation of the requirements of 40 C.F.R. § 63.1505(e)(1), and Section 112 of the Act, 42 U.S.C. 7412.

#### **Count II**

65. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

66. The regulation at 40 C.F.R. § 63.1505(i)(4), requires that the owner or operator of a group 1 furnace must not exceed an emission standard of 0.20 kg of HCl per Mg (0.40 lb of HCl per ton) of feed/charge.

67. On February 11-14, 2003, Spectro's group 1 furnaces #1 and #3 emitted an average of 1.5 lbs HCl per ton of charge.

68. On February 11-14, 2003, emissions from group 1 furnaces #1 and #3 at the facility were in excess of the 0.40 lbs HCl per ton of charge limit set forth in 40 C.F.R. § 63.1505(i)(4).

69. On March 4, 2004, Spectro conducted performance emission testing for HCl on its group 1 furnaces #1 and #3.

70. On March 4, 2004, emissions from group 1 furnaces #1 and #3 at the facility were below the 0.40 lbs HCl per ton of charge limit set forth in 40 C.F.R. § 63.1505(i)(4).

71. From March 24, 2003, until March 4, 2004, Spectro was in violation of the requirements of 40 C.F.R. § 63.1505(i)(4), and Section 112 of the Act, 42 U.S.C. 7412.

### Count III

72. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

73. The regulation at 40 C.F.R. § 63.1506(g)(1)(i) requires that the owner or operator of a scrap dryer/delacquering kiln/decoating kiln with emissions controlled by an afterburner and a lime-injected fabric filter must, for each afterburner, maintain the 3-hour block average operating temperature of each afterburner at or above the average temperature established during the performance test.

74. The average afterburner operating temperature established during Spectro's February 11-14, 2003, performance test of scrap dryer #3 was 1456°F.

75. From March 23, 2003 to September 23, 2003, Spectro's 3-hour block average afterburner temperature on scrap dryer #3, was less than 1456°F on 101 occasions.

76. Due to the temperature deviations described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1506(g)(1), and Section 112 of the Act, 42 U.S.C. 7412.

### Count IV

77. Complainant incorporates paragraphs 1 through 53 of

this complaint, as if set forth in this paragraph.

78. The regulation at 40 C.F.R. § 63.1506(g)(4) requires that the owner or operator of a scrap dryer/delacquering kiln/decoating kiln with emissions controlled by an afterburner and a lime-injected fabric filter must maintain the 3-hour block average inlet temperature for each fabric filter at or below the average temperature established during the performance test, plus 25°F.

79. The average baghouse inlet temperature established during Spectro's February 11-14, 2003, performance test of scrap dryer #3 plus 25°F was 395°F.

80. From March 23, 2003 to September 23, 2003, Spectro's 3-hour block average baghouse inlet temperature on scrap dryer #3, was greater than 395°F on 369 occasions.

81. Due to the temperature deviations described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1506(g)(4), and Section 112 of the Act, 42 U.S.C. 7412.

#### **Count V**

82. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

83. The regulation at 40 C.F.R. § 63.1506(m)(3) requires that the owner or operator of a group 1 furnace with emissions controlled by a lime-injected fabric filter must maintain the 3-hour block average inlet temperature for each fabric filter at or below the average temperature established during the performance test, plus 25°F.

84. The average baghouse inlet temperature established

during Spectro's February 11-14, 2003, performance test of group 1 furnaces #1 and #3 plus 25°F was 167°F.

85. From March 23, 2003 to September 23, 2003, Spectro's 3-hour block average baghouse inlet temperature on group 1 furnaces #1 and #3, was greater than 167°F on 1,279 occasions.

86. Due to the temperature deviations described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1506(m)(3), and Section 112 of the Act, 42 U.S.C. 7412.

#### **Count VI**

87. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

88. The regulation at 40 C.F.R. § 63.1510(g)(2) requires that the owner or operator of an affected source using an afterburner to comply must install, calibrate, maintain, and operate a device to continuously monitor and record the operating temperature of the afterburner and, among other things, the temperature monitoring system must record temperature in 15-minute block averages and determine and record the average temperature for each 3-hour block period.

89. From March 23, 2003 to September 23, 2003, Spectro's scrap dryer #3 afterburner data recorder malfunctioned on numerous occasions causing the operating temperature of the afterburner not to be recorded.

90. Due to the failure of the afterburner temperature monitor described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1510(g)(2), and Section 112 of the Act, 42 U.S.C. 7412.

**Count VII**

91. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

92. The regulation at 40 C.F.R. § 63.1510(h)(2) requires that the owner or operator of a scrap dryer/delacquering kiln/decoating kiln using a lime-injected fabric filter to comply must install, calibrate, maintain, and operate a device to continuously monitor and record the operating temperature of the fabric filter inlet gases and, among other things, the temperature monitoring system must record temperature in 15-minute block averages and calculate and record the average temperature for each 3-hour block period.

93. From March 23, 2003 to September 23, 2003, Spectro's scrap dryer #3 fabric filter inlet temperature recorder malfunctioned on numerous occasions causing the fabric filter inlet temperature not to be recorded.

94. Due to the failure of the fabric filter inlet temperature monitor described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1510(g)(2), and Section 112 of the Act, 42 U.S.C. 7412.

**Count VIII**

95. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

96. The regulation at 40 C.F.R. § 63.1510(h)(2) requires that the owner or operator of a group 1 furnace using a lime-injected fabric filter to comply must install, calibrate,

maintain, and operate a device to continuously monitor and record the operating temperature of the fabric filter inlet gases and, among other things, the temperature monitoring system must record temperature in 15-minute block averages and calculate and record the average temperature for each 3-hour block period.

97. From March 23, 2003 to September 23, 2003, Spectro's furnace #1 and #3 fabric filter inlet temperature recorder malfunctioned on numerous occasions causing the fabric filter inlet temperature not to be recorded.

98. Due to the failure of the fabric filter inlet temperature monitor described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1510(g)(2), and Section 112 of the Act, 42 U.S.C. 7412.

#### **Count IX**

99. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

100. The regulation at 40 C.F.R. § 63.1517(b)(5) requires that the owner or operator of a new or existing group 1 furnace must maintain records of 15-minute block average weights of gaseous or liquid reactive flux injection rate and calculations (including records of the identity, composition, and weight of each addition of gaseous or liquid or solid flux), including records of any period the rate exceeds the compliant operating parameter value and corrective action taken.

101. From March 23, 2003 to September 23, 2003, Spectro's furnace #1 and #3 chlorine injection data recorder malfunctioned on numerous occasions causing the rate of reactive flux injection

not to be recorded.

102. Due to the failure of the furnace #1 and #3 chlorine injection data recorder described above, Spectro was in violation of the requirements of 40 C.F.R. § 63.1517(b)(5), and Section 112 of the Act, 42 U.S.C. 7412.

**Count X**

103. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

104. The regulation at 40 C.F.R. § 63.1516(b) requires an owner or operator to submit semiannual excess emissions/summary reports within 60 days after the end of each 6-month period.

105. The excess emission/summary report submitted by Spectro for the time period from March 23, 2003 to September 23, 2003, was signed by Spectro on December 5, 2003 and received by U.S. EPA on December 9, 2003.

106. Due to the submission of the excess emission/summary report on December 9, 2003 rather than November 22, 2003, Spectro was in violation of the requirements of 40 C.F.R. § 63.1516(b) and Section 112 of the Act, 42 U.S.C. 7412.

**Count XI**

107. Complainant incorporates paragraphs 1 through 53 of this complaint, as if set forth in this paragraph.

108. The regulation at 40 C.F.R. § 63.1515(a)(6) requires that the owner or operator notify the Administrator of the intent to conduct a performance test at least 60 days before the performance test is scheduled.

109. On January 14, 2004, Spectro notified U.S. EPA of its

intent to conduct a performance test on scrap dryer #1 on February 5-6, 2004.

110. Due to Spectro's failure to notify U.S. EPA of its intent to conduct a performance test on scrap dryer #1 at least 60 days before such test, Spectro was in violation of the requirements of 40 C.F.R. § 63.1515(a)(6), and Section 112 of the Act, 42 U.S.C. 7412.

#### **Proposed Civil Penalty**

111. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

112. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$247,578. Complainant evaluated the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

113. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

#### **Rules Governing This Proceeding**

114. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of

Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 40 C.F.R. Part 22 govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

**Filing and Service of Documents**

115. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

116. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Mony Chabria, Associate Regional Counsel, to receive any answer and subsequent legal documents that Respondent serves in this proceeding. You may telephone Mr. Chabria at (312) 886-6842. Mr. Chabria's address is:

Mony Chabria (C-14J)  
Associate Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**Penalty Payment**

117. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by

delivering the check to:

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

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Mony Chabria and to:

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**Opportunity to Request a Hearing**

118. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 119 through 124 below.

**Answer**

119. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint; contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the

address specified in paragraph 115, above, and must serve copies of the written answer on the other parties.

120. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

121. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

122. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

123. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 118 above.

124. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under Section

22.17 of the Consolidated Rules. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under Section 22.27(c) of the Consolidated Rules.

#### **Settlement Conference**

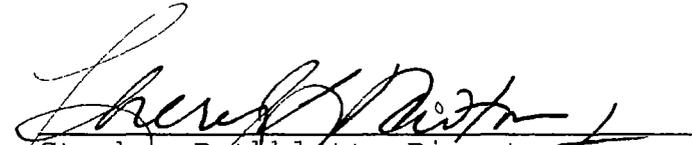
125. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Mony Chabria at the address or phone number specified in paragraph 116, above.

126. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

127. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

9/29/04  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

**EA-03-2004 0053**

In the Matter of Aluminum Recovery Technologies, Inc.  
Docket No.

~~CAA-05-2004~~ 0053  
CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number ~~CAA-05-2004~~ 0053 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 40 C.F.R. Part 22, and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Paul Curtis  
Spectro Alloys Corporation  
13220 Doyle Path  
Rosemount, MN 55068

Kevin Johnson  
Lindquist & Vennum, PLLP  
4200 IDS Center  
80 South Eight Street  
Minneapolis, MN 55402

U.S. ENVIRONMENTAL  
PROTECTION AGENCY  
REGION V

04 SEP 29 P 2:22

RECEIVED  
REGIONAL HEARING  
CLERK

on the 29th day of Sept, 2004.

  
Loretta Shaffer  
AECAS MN/OH

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1558 5328