



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

REPLY TO THE ATTENTION OF
(AE-17J)

MAR 25 2005

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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

Dear Mr. Curtis:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves the matter against Spectro Alloys Corporation, Docket No. CAA-05-2004-0053. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 25 2005.

Pursuant to paragraph 12 of the CAFO, Spectro Alloys Corporation must pay the civil penalty within 30 days of MAR 25 2005. Your check must display the case docket number, CAA-05-2004-0053, and the billing document number, 050305015.

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

Sincerely yours,

William MacDowell, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Kevin D. Johnson, Lindquist & Vennum, PLLP
Judge Carl C. Charneski

ARD
EDMS

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RECEIVED
REGIONAL OFFICE

IN THE MATTER OF:) Docket No. CAA-05-2004-0053
)
Spectro Alloys Corporation) Proceeding to Assess an
Rosemount, Minnesota,) 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 September 29, 2004, U.S. EPA filed the complaint in this action against Respondent Spectro Alloys Corporation (Respondent or Spectro). The complaint alleges that Spectro violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 et seq., at its facility in Rosemount, Minnesota. Specifically, the complaint alleges the following violations:

Count I: Exceeding Dioxin/Furan Emission Limits for Scrap Dryers, 40 C.F.R. § 63.1505(e)(1).

Count II: Exceeding HCl Emission Limits for Group 1 Furnaces, 40 C.F.R. § 63.1505(i)(4).

Count III: Exceeding Average Afterburner Temperature Limits for Scrap Dryers, 40 C.F.R. § 63.1506(g)(1).

Count IV: Exceeding Average Baghouse Inlet Temperature Limits for Scrap Dryers, 40 C.F.R. § 63.1506(g)(4).

Count V: Exceeding Average Baghouse Inlet Temperature Limits for Group 1 Furnaces, 40 C.F.R. § 63.1506(m)(3).

Count VI: Failure to Monitor/Record Scrap Dryer Afterburner Temperature, 40 C.F.R. § 63.1510(g)(2).

Count VII: Failure to Monitor/Record Scrap Dryer Fabric Filter Inlet Temperature, 40 C.F.R. § 63.1510(g)(2).

Count VIII: Failure to Monitor/Record Group 1 Furnace Fabric Filter Inlet Temperature, 40 C.F.R. § 63.1510(g)(2).

Count IX: Failure to Maintain Records of Group 1 Furnace Chlorine Injection Rate, 40 C.F.R. § 63.1517(b)(5).

Count X: Failure to Timely Submit Excess Emission/Summary Report, 40 C.F.R. § 63.1516(b).

Count XI: Failure to Timely Notify U.S. EPA of Intent to Conduct Performance Test, 40 C.F.R. § 63.1515(a)(6).

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

4. In a November 22, 2004, letter, Spectro voluntarily disclosed to U.S. EPA the discovery of an additional violation of the NESHAP for Secondary Aluminum Production. The disclosed violation related to a failure to monitor/record scrap dryer afterburner temperatures, as required by 40 C.F.R. § 63.1510(g)(2).

Stipulations

5. Spectro 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.

6. Spectro admits the violation of 40 C.F.R. § 63.1510(g)(2) identified in its November 22, 2004, disclosure letter to U.S. EPA.

7. Spectro 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. Spectro certifies that it is complying fully with the Secondary Aluminum NESHAP regulations found at 40 C.F.R. Part 63, Subpart RRR (§§ 63.1500 et seq.).

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

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

Civil Penalty

11. In consideration of the size of Spectro's business, the economic impact of the penalty on Spectro's business, Spectro's full compliance history and good faith efforts to comply, the duration of the violations, the economic benefit of noncompliance, the seriousness of the violation, other factors as

justice may require, and Spectro's agreement to perform a supplemental environmental project, U.S. EPA agrees to mitigate the proposed penalty of \$247,578 to \$49,058.

12. Spectro must pay the \$49,058 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.

13. Spectro must send the check to:

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

14. 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

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

16. If Spectro does not pay timely the civil penalty, or any stipulated penalties due under paragraph 29, below, 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.

17. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Spectro will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Spectro 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.

Supplemental Environmental Project

18. Spectro must complete a supplemental environmental project (SEP) designed to protect the environment and public health by installing hard surfacing to cover a 38,880 square foot

area of limestone roadway at its facility, thereby reducing emissions of particulate matter.

19. At its Rosemount, Minnesota facility, Spectro must complete the SEP as follows:

a. By no later than October 31, 2005, Spectro must install hard surfacing (concrete or asphalt) on areas of Spectro's facility which are currently class 5 limestone roadways. The roadways to be covered constitute 38,880 square feet. A map of these areas is attached as Attachment B.

b. From completion of the installation of the hard surfacing described above until October 31, 2007, Spectro will implement the Hard Surfacing Maintenance Plan attached as Attachment A.

20. Spectro must spend at least \$150,000 to complete the SEP.

21. Spectro certifies that it is not required to perform or develop the SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Spectro further certifies that it has not received, and is not negotiating to receive, credit for the SEP in any other enforcement action.

22. U.S. EPA may inspect the facility at any time to monitor Spectro's compliance with this CAFO's SEP requirements.

23. Spectro must submit an Interim SEP Report by November 30, 2005. The Interim SEP Report must contain the following information:

a. description of activities completed to date, including the square feet of limestone roadway which has been covered with hard surfacing;

b. description of any problems in the installation of the hard surfacing and the actions taken to correct the problems;

24. Spectro must submit a SEP completion report to U.S. EPA by November 30, 2007. This report must contain the following information:

a. detailed description of the SEP as completed;

b. description of any operating problems and the actions taken to correct the problems;

c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or canceled checks that specifically identify and itemize the individual costs of the goods and services;

d. certification that Spectro has completed the SEP in compliance with this CAFO; and

e. description of the environmental and public health benefits resulting from the SEP (quantify the benefits and pollution reductions, if feasible).

25. Spectro must submit all notices and reports required by this CAFO by first class mail to:

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

26. In each report that Spectro submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by one of its officers:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

27. Following receipt of the SEP completion report described in paragraph 24 above, U.S. EPA must notify Spectro in writing that:

- a. It has satisfactorily completed the SEP and the SEP report;
- b. There are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Spectro 30 days to correct the deficiencies; or
- c. It has not satisfactorily completed the SEP or the SEP report and U.S. EPA will seek stipulated penalties under paragraph 29.

28. If U.S. EPA exercises option b. above, Spectro may object in writing to the deficiency notice within 10 days of receiving the notice. The parties will have 30 days from U.S. EPA's receipt of Spectro's objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give Spectro a written decision on its objection. Spectro will comply with any requirements that U.S. EPA imposes in its decision. If Spectro does not complete the SEP as required by U.S. EPA's

decision, Spectro will pay stipulated penalties to the United States under paragraph 29 below.

29. If Spectro violates any requirement of this CAFO relating to the SEP, Spectro must pay stipulated penalties to the United States as follows:

a. Except as provided in subparagraph b, below, if Spectro did not complete the SEP satisfactorily according to this CAFO, Spectro must pay a stipulated penalty of \$132,174.

b. If Spectro did not complete the SEP satisfactorily, but U.S. EPA determines that Spectro: (i) made good faith and timely efforts to complete the SEP; and (ii) certified, with supporting documents, that it spent at least 90 percent of the required amount on the SEP, Spectro will not be liable for any stipulated penalty.

c. If Spectro satisfactorily completed the SEP, but spent less than 90 percent of the required amount on the SEP, Spectro must pay a stipulated penalty of the difference between the amount spent and \$150,000.

d. If Spectro failed to submit timely the Interim SEP Report required by paragraph 23 above, Spectro must pay a stipulated penalty of \$250 for each day after the report was due until it submits the report.

d. If Spectro failed to submit timely the SEP completion report required by paragraph 24 above, Spectro must pay a stipulated penalty of \$500 for each day after the report was due until it submits the report.

30. U.S. EPA's determinations of whether Spectro satisfactorily completed the SEP and whether it made good faith, timely efforts to complete the SEP will bind Spectro.

31. Spectro must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties.

Spectro will use the method of payment specified in paragraphs 13-14, above, and will pay interest, handling charges, and nonpayment penalties on any overdue amounts.

32. Any public statement that Spectro makes referring to the SEP must include the following language, "Spectro undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Spectro for violations of the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production and the Clean Air Act."

General Provisions

33. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint and disclosed in the November 22, 2004, voluntary disclosure letter from Spectro to U.S. EPA.

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

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

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

37. The terms of this CAFO bind Spectro, and its successors, and assigns.

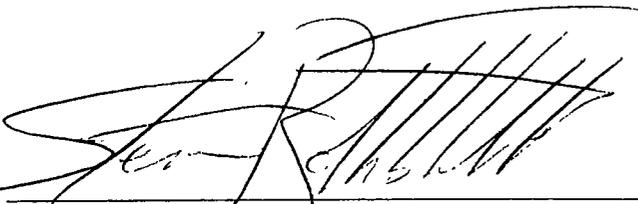
38. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

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

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

U.S. Environmental Protection Agency,
Complainant

Date: 3/22/2005

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

Spectro Alloys Corporation, Respondent

Date: 3-9-05

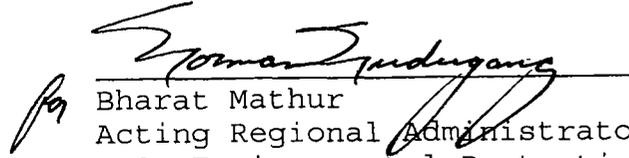
By: 
Paul Curtis, President
Spectro Alloys Corporation

CONSENT AGREEMENT AND FINAL ORDER
Spectro Alloys Corporation
Docket No. CAA-05-2004-0053

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: 7/27/05


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

ATTACHMENT A

Spectro Alloys Corp.

SEP Hard Surfacing Maintenance Plan

1. Sweeping:

All paved surfaces resulting from the SEP will be swept with Spectro's street sweeping machine a minimum of once every two weeks during periods of the year when the average daily temperature is above 32° F and there is no snow cover. Spectro's sweeping equipment consists of an Elgin Pelican commercial street sweeping machine with an 8 foot sweeping path. Use of the sweeping machine is both unnecessary and incompatible with periods of subfreezing weather and/or snow cover.

2. Surface Repairs:

Spectro performs annual surface repair and replacement as needed throughout its facility during periods of furnace downtime in July and August of each year. The nature of Spectro's industry requires solid tires on rolling equipment, rather than pneumatic tires. Because solid tires do not absorb impacts like pneumatic tires, driving surfaces in need of repair can cause significant damage to Spectro's rolling equipment and equipment operators. Therefore, repair of driving surfaces at the facility takes a high priority in Spectro's overall maintenance plan. The areas paved as a result of the SEP will be included in Spectro's annual repair and replacement process.



LEGEND

- 1. CONCRETE PAVEMENT
- 2. BITUMINOUS PAVEMENT
- 3. SEP HARD SURFACING

- 4. CONCRETE PAVEMENT
- 5. BITUMINOUS PAVEMENT
- 6. SEP HARD SURFACING

Scale: 1" = 50'
 0 25 50 100

SPECTRO ALLOYS CORPORATION
 ROSEMOUNT, MINNESOTA

SEP PLAN		
NO.	REVISION	DATE

Larson
 Engineering of Minnesota
 3524 Lobley Road
 White Bear Lake, MN 55110
 (P) 651 481-8130 (F) 651 481-8301

I HEREBY CERTIFY THAT THE PLAN, SPECIFICATION OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA.

Sign: E. P. ...
 Date: ...

CERTIFICATE OF SERVICE

I, Mony Chabria, certify that I hand delivered one original and one copy of the Consent Agreement and Final Order, docket number CAA-05-2004-0053 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 Spectro Alloys Corporation and its Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Paul Curtis (Second Original)
Spectro Alloys Corporation
13220 Doyle Path
Rosemount, MN 55068

Kevin D. Johnson
Lindquist & Vennum, PLLP
4200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2274

I further certify that I mailed a correct copy by U.S. EPA pouch mail to the Presiding Officer addressed as follows:

Judge Carl C. Charneski
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code 1900L
1200 Pennsylvania Ave., NW
Washington, DC 20460-2001

on the 25th day of MARCH, 2005.



Mony Chabria
Associate Regional Counsel

CERTIFIED MAIL RECEIPT NUMBER: 7002 2410 0002 2741 6848
7002 2410 0002 2741 6831