



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

SEP 21 2007

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Paul Curtis, President
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-05-2007-0029. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on - SEP 21 2007.

Pursuant to paragraph 63 of the CAFO, Spectro Alloys Corporation must pay the civil penalty within 30 days of SEP 21 2007. Your check must display the case docket number, CAA-05-2007-0029, and the billing document number, 2750703A03T.

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

Sincerely yours,

A handwritten signature in cursive script that reads "William MacDowell".

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

Enclosure

cc: Kevin D. Johnson, Stoel Rives LLP

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:) Docket No. CAA-05-2007-0029
)
Spectro Alloys Corporation) Proceeding to Assess a Civil
Rosemount, Minnesota) Penalty under Section 113(d) of the
) Clean Air Act, 42 U.S.C. § 7413(d)
)
Respondent.)

RECEIVED CLERK
REGIONAL HEARING V
US EPA REGION 5
2007 SEP 21 PM 1:56

Consent Agreement and Final Order

I. Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) 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* (Consolidated Rules), 40 C.F.R. §§ 22.1(a)(2), 22.13(b), and 22.18(b).
2. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brings this administrative action seeking a civil penalty under Section 113(d) of the Act, 42 U.S.C. § 7413(d).
3. Respondent is Spectro Alloys Corporation (Respondent), a corporation doing business in Minnesota.
4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b).

II. Statutory and Regulatory Background

5. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 through 63.1520.

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

7. “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. . . .”

8. 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.”

9. “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.”

10. “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....”

11. “Existing source” is defined at 40 C.F.R. § 63.2 as “any affected source that is not a new source.”

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

13. “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.”

14. “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.”

15. “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.

16. 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.”

17. “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.”

18. “Dioxins and furans” and “D/F” are defined at 40 C.F.R. § 63.1503 as “tetra-, penta-, hexa- and octachlorinated dibenzo dioxins and furans.”

19. The NESHAP, at 40 C.F.R. § 63.1505(i)(3), prohibits the owner or operator of a group 1 furnace from discharging into the atmosphere more than 15 µg of D/F TEQ per Mg of charge (2.1×10^{-4} gr of D/F TEQ per ton of charge) from a group 1 furnace.

20. The NESHAP, at 40 C.F.R. § 63.1517 (b)(2)(ii), requires that the owner or operator of a new or existing affected source (including an emission unit in a secondary aluminum processing unit), must maintain records of annual afterburner inspections, for each source with emissions controlled by an afterburner

21. 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 violations of the Secondary Aluminum NESHAP that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004, under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

22. Section 113(d)(1) of the Act 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 the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

23. 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 violation alleged in this CAFO.

III. Factual Allegations

24. Respondent owns and/or operates a secondary aluminum facility at 13220 Doyle Path Road, Rosemount, Minnesota (the facility).
25. 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
26. The facility is a “secondary aluminum production facility” as that term is defined at 40 C.F.R. § 63.1503.
27. Dioxins and furans are emitted from the facility.
28. Dioxins and furans are listed as hazardous air pollutants in Section 112(b) of the Act, 42 U.S.C. 7412(b).
29. 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.
30. The facility is a “major source” as that term is defined at 40 C.F.R. § 63.2.
31. The facility is subject to the requirements of 40 C.F.R. Part 63, Subpart RRR.
32. 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.
33. Spectro’s furnaces #1 and #3 melt, hold, or process aluminum that contains paint, lubricants, coatings and other foreign materials with reactive fluxing.
34. Spectro’s furnaces #1 and #3 are “group 1 furnaces” as that term is defined at 40

C.F.R. § 63.1503.

35. Spectro's furnaces #1 and #3 are "existing sources" as that term is defined at 40

C.F.R. § 63.2.

36. Spectro's furnaces #1 and #3 are "affected sources" as that term is defined at 40

C.F.R. § 63.2.

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

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

39. 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.

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

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

42. 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

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

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

45. On August 29, 2006, Spectro conducted a stack test for dioxin/furan emissions from furnaces #1 and #3.

46. Results from the August 29, 2006 stack test were submitted to U.S. EPA in October 2006. The report showed that the emission rate for dioxin/furans from Furnaces #1 and #3 was 0.00050 gr of D/F TEQ per ton.

47. U.S. EPA sent a Clean Air Act (CAA) § 114 Request for information to Spectro on November 16, 2006 asking for afterburner inspection records for 2003, 2004, 2005, and 2006.

48. The response to the CAA Section 114 Request was received December 22, 2006.

49. Based on the evaluation of the response to a CAA § 114 information request submitted to U.S. EPA in December 2006, U.S. EPA has determined that the afterburner inspection records for 2003, 2004, 2005, and 2006, were not maintained as required.

50. On February 9, 2007, U.S. EPA issued a Finding of Violation to Respondent citing the violations addressed in this CAFO.

51. On May 1-2, 2007, Respondent conducted a stack test for dioxin/furan emissions from furnaces #1 and #3.

52. Results from the May 1-2, 2007 stack test were submitted to the U.S. EPA in June 2007. The report showed that the average emission rate for dioxin/furans from furnaces #1 and #3 was below the emission limit of 0.00021 gr of D/F TEQ per ton.

53. Respondent's initial compliance test conducted in 2003 demonstrated that its emission rate of dioxin/furans from furnaces #1 and #3 was below the emission limit of 0.00021 gr of D/F TEQ per ton

54. On March 6, 2007, Respondent submitted documentation to U.S. EPA that it is maintaining annual afterburner inspection records.

IV. Alleged Violations

55. As set forth above, Respondent exceeded the emission rate for dioxin/furans, constituting a violation of 40 C.F.R. § 63.1505(i)(3) and Section 112 of the Act, 42 U.S.C. § 7412.

56. As set forth above, Respondent failed to maintain annual afterburner inspection records for 2003, 2004, 2005, and 2006, constituting a violation of 40 C.F.R. § 63.1517(b)(2)(ii) and Sections 112 of the Act, 42 U.S.C. §§ 7412.

V. Stipulations

57. Respondent admits the jurisdictional allegations and neither admits nor denies the factual allegations and the alleged violations set out in this CAFO.

58. Respondent consents to issuance of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

59. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

60. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

VI. Civil Penalty

61. Pursuant to Section 113(e) of the Act, 42 U.S.C. § 7413(e), in determining the amount of the penalty assessed, U.S. EPA took into account (in addition to other factors as justice may require) the size of Respondent's business, the economic impact of the penalty on Respondent's business, Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payments by Respondent of penalties previously assessed for the

same violation, the economic benefit of noncompliance, and the seriousness of the violation.

62. Based on an analysis of the above factors, including Respondent's cooperation and prompt return to compliance, U.S. EPA has determined that an appropriate civil penalty to settle this action would be \$70,923.

63. Respondent must pay the \$70,923 civil penalty within 30 days after the effective date of this CAFO. Payment must be made by cashier's or certified check payable to the "Treasurer, United States of America," in accordance with paragraphs 64 and 65 below.

64. Respondent must send the check to:

Attn: Patricia McKaveney
U.S. Environmental Protection Agency
P.O. Box 371531
Pittsburgh, PA 15251-7531

65. 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-13J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

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 60604-3511

Mony Chabria, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

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

67. If Respondent 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.

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

VII. General Provisions

69. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in the Alleged Violations section of this CAFO.

70. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

71. This CAFO does not affect Respondent's responsibility to comply with the Act and other applicable federal, state, and local laws and regulations. Except as provided in paragraph 69 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by U.S. EPA.

72. 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 Respondent’s “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

73. The terms of this CAFO bind Respondent, its successors, and assigns.

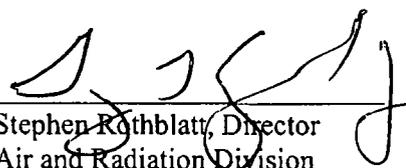
74. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

75. Each party agrees to bear its own costs and attorneys’ fees in this action.

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

U.S. Environmental Protection Agency, Complainant

Date: 9/21/07

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

Spectro Alloys Corporation, Respondent

Date: 9-19-07

By: 
Name: Paul Curtis
Title: President

CONSENT AGREEMENT AND FINAL ORDER

Spectro Alloys Corporation, Rosemount, Minnesota

Docket No.

CAA-05-2007-0029

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. This final order concludes this proceeding pursuant to 40 C.F.R. § 22.18.

Date: 9-21-07



Mary A. Gade
Regional Administrator
U.S. Environmental Protection Agency
Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2007-0029 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
Spectro Alloys Corporation
13220 Doyle Path
Rosemount, MN 55068

(Second Original)

Kevin D. Johnson
Stoel Rives LLP
100 South Fifth Street, Suite 1900
Minneapolis, MN 55402

RECEIVED
REGIONAL HEARING CLERK
US EPA REGION V
2007 SEP 21 PM 1:56

on the 21ST day of September, 2007.


Loretta Shaffer
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8919 1778