



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

SEP 28 2011

REPLY TO THE ATTENTION OF

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

Mark Psaros  
Manager  
R.S. Owens & Company  
5535 North Lynch Avenue  
Chicago, Illinois 60630

Dear Mr. Psaros:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves R.S. Owens and Company (R.S. Owens), docket number CAA-05-2011-0058. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 29 2011.

Pursuant to paragraph 25 of the CAFO, R.S. Owens must pay the civil penalty within 30 days of October 31, 2011. Your electronic funds transfer must display the case name "R.S. Owens and Company", the docket number, CAA-05-2011-0058, and the billing document number, 2751103A057.

Please direct any questions regarding this case to J. Matthew Moore, Office of Regional Counsel, (312) 866-5932.

Sincerely,

Sara Breneman  
Air Enforcement and Compliance Assurance Branch, MI/WI

Enclosure

cc: Regional Hearing Clerk/E-19J  
Marcy Toney, Regional Judicial Officer/C-14J  
J. Matthew Moore/C-14J  
Ray Pilapil/Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>Docket No. CAA-05-2011-0058</b>
	)	
<b>R.S. Owens and Company</b>	)	<b>Proceeding to Assess a Civil Penalty</b>
<b>Chicago, Illinois,</b>	)	<b>Under Section 113(d) of the Clean Air Act</b>
	)	<b>42 U.S.C. § 7413(d)</b>
<b>Respondent.</b>	)	
_____	)	

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5.

3. Respondent is R.S. Owens and Company (R.S. Owens), a corporation doing business in Illinois (the facility).

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).

5. 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.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

### **Jurisdiction and Waiver of Right to Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. 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.

### **Statutory and Regulatory Background**

9. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.

10. Pursuant to Section 110 of the CAA, 42 U.S.C. § 7410, Illinois' Operating Permit Program was submitted to U.S. EPA, and approved by U.S. EPA on December 12, 1992. Pursuant to U.S. EPA's approval of Illinois' Operating Permit Program, certain air permits or specific conditions within permits issued by Illinois are federally enforceable. Such permits or specific conditions within permits are called Federally Enforceable State Operating Permits (FESOPs).

11. 40 C.F.R. § 52.23 provides, *inter alia*, that any failure by a person to comply with any approved regulatory provision of a SIP or a permit (including, *inter alia*, a FESOP) shall render such person subject to enforcement action pursuant to Section 113 of the CAA, 42 U.S.C. § 7413.

12. On February 9, 2005, the Illinois Environmental Protection Agency issued to R.S. Owens FESOP Permit I.D. No. 031600FPE.

13. Pursuant to Section 112 of the CAA, EPA promulgated the National Emissions Standard for Hazardous Air Pollutants (NESHAP) for Halogenated Solvent Cleaning at 40 C.F.R. Part 63, Subpart T (Subpart T). 59 Fed. Reg. 61805 (Dec. 2, 1994).

14. Subpart T applies to individual batch vapor solvent cleaning machines that use solvent containing trichloroethylene (TCE). More specifically, Subpart T applies to batch vapor cleaning machines as defined in 40 C.F.R. § 63.461.

15. Subpart T requires that owners and operators of individual batch vapor solvent cleaning machines that commenced construction or reconstruction on or before November 29, 1993, shall achieve compliance with the provisions of Subpart T immediately upon start-up or by December 2, 1994, whichever is later.

16. Paragraph 16 of Permit 031600FPE requires that Respondent post in the work place a one page summary of work practices.

17. Paragraph 16(c) of Permit 031600FPE and 40 C.F.R. § 63.463(d)(2) require the facility's batch vapor degreaser to use a manual hoist that does not exceed a speed of 3 feet per minute or less during entry and removal of parts or the parts basket to be less than or equal to 50% of the solvent air interface area.

18. Paragraph 16(g) of Permit 031600FPE and 40 C.F.R. § 63.463(d)(8) require that Respondent add and remove solvent with leak-proof couplings. The end of the pipe or hose introducing or withdrawing the solvent must be located beneath the liquid solvent surface (i.e., submerged filling) in the sump.

19. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009 under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

### **Factual Allegations and Alleged Violations**

20. R.S. Owens owns and operates a manufacturing facility for awards and trophies located at 5535 North Lynch Avenue, Chicago, Illinois.

21. On February 9, 2005, the Illinois Environmental Protection Agency issued to R.S. Owens a FESOP I.D. No. 031600FPE. Therefore, R.S. Owens is subject to the provisions in this permit.

22. The facility owns and operates a batch cleaning machine, as defined in 40 C.F.R. § 63.461, which uses TCE in a total concentration greater than 5 percent by weight as a cleaning and/or drying agent. Therefore, the facility is subject to the requirements of Subpart T.

23. On January 25, 2011, EPA conducted an unannounced inspection at the facility.

24. From January 25, 2011 to June 6, 2011, R.S. Owens was in violation of paragraph 16 of Permit 031600FPE, because it did not have a posted one page complete summary of work practices in the work place.

25. From January 25, 2011 to May 26, 2011, R.S. Owens was in violation of paragraph 16(c) of Permit 031600FPE and 40 C.F.R. § 63.463(d)(2) because the facility's batch vapor degreaser used a parts basket greater than 50% of the solvent air interface area along with a hoist that exceeded the speed of 3 feet per minute.

26. From January 25, 2011 to September 23, 2011, R.S. Owens was in violation of Paragraph 16(g) of Permit 031600FPE and 40 C.F.R. § 63.463(d)(8) because it did not transfer TCE from the storage drum to the batch vapor degreaser using leak proof couplings.

**Civil Penalty**

27. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and the Respondents ability to pay, Complainant has determined that an appropriate civil penalty to settle this action is \$1,200.

28. Within 30 days after the effective date of this CAFO, Respondent must pay a \$1,200 civil penalty by electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

Federal Reserve Bank of New York  
ABA No. 021030004  
Account No. 68010727  
33 Liberty Street  
New York, New York 10045  
Field Tag 4200 of the Fedwire message should read:  
"D68010727 Environmental Protection Agency"

In the comment or description field of the electronic funds transfer, state name (R.S. Owens and Company), the docket number of this CAFO, and the billing document number.

29. Respondent must send a notice of payment that states "R.S. Owens", the docket number of this CAFO, and the billing document number to the following addresses when it pays the penalty:

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

J. Matthew Moore (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

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

31. If Respondent does not pay timely the civil penalty, 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 CAA, 42 U.S.C. § 7413(d)(5). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

32. Pursuant to 31 C.F.R. § 901.9, Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury. Respondent must pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the CAA, 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**

33. This CAFO resolves only Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

34. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

35. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state, and local laws. Compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

36. Respondent certifies that it is complying fully with Subpart T and FESOP Permit 031600FPE.

37. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

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

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

40. Each party agrees to bear its own costs and attorney's fees in this action.

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

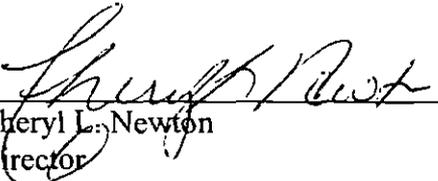
**R.S. Owens and Company, Respondent**

9/22/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Scott Seigel, President  
R.S. Owens and Company

**United States Environmental Protection Agency, Complainant**

9/26/11  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Cheryl L. Newton  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**Consent Agreement and Final Order**  
**In the Matter of: R.S. Owens and Company**  
**Docket No. CAA-05-2011-0058**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

9-28-11  
Date



\_\_\_\_\_  
Susan Hedman  
Regional Administrator  
U.S. Environmental Protection Agency  
Region 5

RECEIVED  
SEP 29 2011

REGIONAL HEARING CLERK  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY

**Consent Agreement and Final Order**  
**In the Matter of: R.S. Owens and Company**  
**Docket No. CAA-05-2011-0058**

**Certificate of Service**

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number CAA-05-2011-0058 with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed a second original copy by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

Mark Psaros  
Manager  
R.S. Owens & Company  
5535 North Lynch Avenue  
Chicago, Illinois 60630

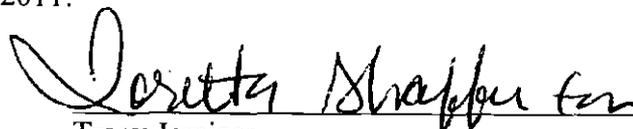
I certify that I mailed a copy of the CAFO by first-class mail, addressed as follows:

Ray Pilapil, Manager  
Compliance and Enforcement Section  
Bureau of Air  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 6279

I also certify that I delivered a copy of the CAFO by intra-office mail, addressed as follows:

Marcy Toney  
Regional Judicial Officer  
U.S. Environmental Protection Agency, Region 5  
77 W. Jackson Boulevard/Mail Code C-14J  
Chicago, Illinois 60604

On the 29 day of September 2011.

  
Tracy Jamison,  
Office Automation Assistant,  
AECAS, PAS

CERTIFIED MAIL RECEIPT NUMBER: 70091680000076700344