



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

ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Kevin Haney
EHS Manager
Spectro Alloys Corporation
khaney@spectroalloys.com

RE: Request for Furnace 1 Performance Test Extension
Spectro Alloys Corporation, Rosemount, MN

Dear Mr. Haney:

The U.S. Environmental Protection Agency has received and reviewed a letter from Spectro Alloys Corporation (Spectro), dated April 21, 2022 (the Letter), requesting a performance test deadline extension for its Furnace 1 Baghouse (Baghouse) at its secondary aluminum processing facility located in Rosemount, Minnesota (the Facility). The Facility is subject to the National Emission Standards for Secondary Aluminum Processing (NESHAP), 40 C.F.R. Part 63, Subpart RRR (Subpart RRR). Among other things, Subpart RRR requires Spectro to test the Baghouse every five years, in accordance with 40 C.F.R. § 63.1511(e). The Baghouse was last tested on September 26, 2017; therefore, Subpart RRR currently requires that it be retested by September 26, 2022. Spectro is requesting that this deadline be extended until April 26, 2023. For the reason discussed below, EPA grants Spectro's request for a performance test extension.

Spectro's Request

In the Letter, Spectro states that it is replacing the Baghouse and had originally planned for the new Baghouse to be operational in September 2022, in time to meet the September 26 test deadline; however, due to delays caused by the conflict in Ukraine and on-going COVID-19 supply chain disruptions affecting its German-based vendor, Spectro does not expect the new Baghouse to be operational by that time. As further support for its extension request, Spectro notes in the Letter that delaying the test until April 2023 will avoid testing during the most frigid months of the year, when temperatures typically do "not represent 'worst-case' operating temperatures[...]" Spectro is required to set a baghouse inlet temperature limit based on the 3-hour average operating temperature during the latest performance test. EPA considers this request for the testing extension to be a claim of "force majeure" under Subpart RRR.

Regulatory Background

Under Subpart RRR, 40 C.F.R. § 63.1511, Performance test/compliance demonstration general requirements states:

(e) Repeat tests. The owner or operator of new or existing affected sources and emission units located at secondary aluminum production facilities that are major sources must conduct a performance test every 5 years following the initial performance test.

Under Subpart A – General Provisions, 40 C.F.R. § 63.7, Performance testing requirements states:

(a)(4) If a force majeure is about to occur, occurs, or has occurred for which the affected owner or operator intends to assert a claim of force majeure:

(i) The owner or operator shall notify the Administrator, in writing as soon as practicable following the date the owner or operator first knew, or through due diligence should have known that the event may cause or caused a delay in testing beyond the regulatory deadline specified in paragraph (a)(2) or (a)(3) of this section, or elsewhere in this part, but the notification must occur before the performance test deadline unless the initial force majeure or a subsequent force majeure event delays the notice, and in such cases, the notification shall occur as soon as practicable.

(ii) The owner or operator shall provide to the Administrator a written description of the force majeure event and a rationale for attributing the delay in testing beyond the regulatory deadline to the force majeure; describe the measures taken or to be taken to minimize the delay; and identify a date by which the owner or operator proposes to conduct the performance test. The performance test shall be conducted as soon as practicable after the force majeure occurs.

(iii) The decision as to whether or not to grant an extension to the performance test deadline is solely within the discretion of the Administrator. The Administrator will notify the owner or operator in writing of approval or disapproval of the request for an extension as soon as practicable.

(iv) Until an extension of the performance test deadline has been approved by the Administrator under paragraphs (a)(4)(i), (a)(4)(ii), and (a)(4)(iii) of this section, the owner or operator of the affected facility remains strictly subject to the requirements of this part.

Under Subpart A – General Provisions, 40 C.F.R. § 63.2, Definitions states:

Force majeure means, for purposes of 63.7, an event that will be or has been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevents the owner or operator from complying with the regulatory requirement to conduct performance tests within the specified timeframe

despite the affected facility's best efforts to fulfill the obligation. Examples of such events are acts of nature, acts of war or terrorism, or equipment failure or safety hazard beyond the control of the affected facility.

Analysis

EPA agrees that the circumstances causing the delays to the Baghouse testing qualify as force majeure events, because they include both “acts of war” (Ukraine) as well as “acts of nature” (COVID-19). EPA also agrees that testing during warmer months will be beneficial because, as acknowledged by EPA’s National Stack Testing Guidance document, it will better “demonstrate that [the] facility is capable of complying with the applicable emissions standards at all times” and will most likely provide for representative operating conditions that “are likely to most challenge the emissions control measure of the facility with regard to meeting the applicable emissions standards [...]” Higher baghouse inlet temperatures are expected to both increase the generation of Dioxin and Furan emissions as well as limit the ability to control HCl emissions. Thus, in accordance with 40 C.F.R. § 63.7(a)(4) and consistent with the EPA National Stack Test Guidance, EPA agrees to extent Spectro’s performance test deadline for the Baghouse to no later than April 26, 2023.

If you have any further questions, please contact David Sutlin of my staff at 312-353-8990.

Sincerely,

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.06.07
12:50:13 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Cory Boeck, Manager
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