



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

REGION 2  
290 BROADWAY  
NEW YORK, NY 10007-1866

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. 2  
2007 OCT -1 PM 1:35  
REGIONAL HEARING  
CLERK

SEP 28 2007

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Roy Ritchie, President  
Roysons Corporation  
40 Vanderhoof Avenue  
Rockaway, NJ 07866

**Re: COMPLAINT AND NOTICE OF OPPORTUNITY FOR A HEARING**  
In the matter of: Roysons Corporation, CAA-02-2007-1222

Dear Mr. Ritchie:

Enclosed herewith is a copy of the above-referenced **COMPLAINT AND NOTICE OF OPPORTUNITY FOR A HEARING** (the Complaint) directed to you on behalf of Roysons Corporation, which is being filed for the purpose of proposing a penalty pursuant to Section 113(d) of the Clean Air Act, 42 U.S.C. § 7401 et seq., § 7413(d). The Complaint alleges violations of Sections 112, 114 and Title V of the Act. The total amount of the penalty proposed is \$341,497. In mitigating the penalty, the Agency will consider the fact that MEK has been delisted.

I direct your attention to the section of the Complaint entitled "NOTICE OF OPPORTUNITY FOR A HEARING." If you wish to contest any of the allegations of the Complaint or the amount of the proposed penalty, you must do so within the time specified in the notice or you may lose the opportunity for a hearing. You must file a written Answer to the Complaint within thirty (30) days of receipt, as established by the Certified Mail Return Receipt, or EPA may file a motion for default judgment. If the motion is granted, the proposed penalty will become due and payable thirty (30) days after a final order. A copy of the procedural rules are enclosed for reference.

Counsel designated to appear on behalf of the Complainant in this matter is Peter J. Putignano, who can be reached at (212) 637-3244 or by mail at the address listed below. I call your attention to the section of the Complaint entitled "SETTLEMENT CONFERENCE." EPA is prepared to begin to pursue settlement

of this matter immediately and I encourage you or your attorney, if you are represented, to contact EPA counsel whether or not you intend to contest this matter.

Sincerely,

  
Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance

Enclosures: COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING

40 C.F.R Part 22, Consolidated Rules of Practice Governing the  
Administrative Assessment of Civil Penalties and the Revocation or  
Suspension of Permits

Clean Air Act Stationary Source Civil Penalty Policy

cc: Regional Hearing Clerk (With: Original Complaint with Certificate of  
Service and one copy of Complaint with Certificate of Service):

Karen Maples  
Regional Hearing Clerk  
United States Environmental Protection  
Agency, Region 2  
290 Broadway - 16th Floor  
New York, New York 10007-1866

Counsel on behalf of EPA:

Peter J. Putignano  
Assistant Regional Counsel  
Office of Regional Counsel  
United States Environmental Protection Agency, Region 2  
290 Broadway - 16th Floor  
New York, New York 10007-1866

CERTIFICATE OF SERVICE

This is to certify that I have this day caused to be mailed a copy of the foregoing Complaint, bearing Docket Number CAA-02-2007-1222, a copy of the Consolidated Rules of Practice, 40 C.F.R. Part 22 (64 *Federal Register* 40176 [July 23, 1999]), Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits and a copy of the Clean Air Act Statutory Source Civil Penalty Policy, by certified mail, return receipt requested to: Mr. Roy Ritchie, President, Roysons Corporation, 40 Vanderhoof Avenue, Rockaway, NJ 07866. I hand-carried the original and a copy of the foregoing Complaint to the office of the Regional Hearing Clerk, United States Environmental Protection Agency, Region 2.

Dated: October 1, 2007  
New York, New York

  
\_\_\_\_\_  
Orelia Lewis

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 2**

U.S. ENVIRONMENTAL  
PROTECTION AGENCY-REG. II  
25 OCT -1 PM 1:35

REGIONAL HEARING  
CLERK

**COMPLAINT  
and  
NOTICE OF OPPORTUNITY  
TO REQUEST A HEARING**

CAA-02-2007-1222

In re:

**ROYSONS CORPORATION  
Respondent**

In a proceeding under  
Section 113(d) of the Clean Air Act

**Complaint**

The United States Environmental Protection Agency (EPA) issues this Complaint and Notice of Opportunity for Hearing (Complaint) to Roysons Corporation (Respondent) for violations of and for assessment of penalties under the Clean Air Act, 42 U.S.C. §§ 7401 *et seq.* (CAA or the Act), at 42 U.S.C. § 7413(d), Section 113(d) of the Act, in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22 (Consolidated Rules of Practice). The Complainant in the matter, the Director of the Division of Enforcement and Compliance Assistance, EPA Region 2, is duly delegated the authority to issue Complaints on behalf of EPA Region 2, which includes the State of New York, the State of New Jersey, the Commonwealth of Puerto Rico, and the Territory of the U.S. Virgin Islands.

In this Complaint, EPA alleges that Respondent violated the "National Emission Standards for Printing and Publishing," 40 C.F.R. Part 63, Subpart KK, 40 C.F.R. §§ 63.820 - 63.839, known as the Printing and Publishing maximum available control

technology (MACT) standard (Printing and Publishing MACT), promulgated pursuant to Sections 112 and 114 of the Act.

On September 19, 2007, the Department of Justice (DOJ) granted EPA's request for a waiver of both the time limitation and \$270,000 penalty limitation provided in Section 113(d) of the Act.

### **Statutory and Regulatory Background**

1. Section 113(a)(3) of the Act authorizes the Administrator of EPA to issue an administrative penalty order, in accordance with Section 113(d) of the Act, against any person that has violated or is in violation of the Act.

2. Section 302(e) of the Act defines the term "person" as an individual, corporation, partnership, association, state, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.

3. Section 112(a)(9) of the Act defines "owner or operator" as any person who owns, leases, operates, controls, or supervises a stationary source.

4. Section 112(a)(3) of the Act provides that "stationary source" shall have the same meaning as such term has under Section 7411(a) of the Act.

5. Section 112(a)(1) of the Act defines a "major source" 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 ten (10) tons per year or more of any hazardous air pollutant (HAP) or twenty-five (25) tons per year or more of any combination of HAPs.

6. Section 112(a)(1) of the Act defines "area source" as any stationary source of HAPs that is not a major source.

7. Section 112(b)(1) of the Act provides a list of HAPs and, among other things, requires the Administrator to review and where appropriate revise the list by rule.

8. Section 112(c) of the Act requires EPA to publish a list of all categories and subcategories of major sources and area sources of HAPs.

9. Section 112(d) of the Act requires EPA to promulgate regulations establishing emission standards for each category or subcategory of major and area sources listed for regulation pursuant to Section 112(c) of the Act.

10. Section 112(f)(4) of the Act provides that no air pollutant to which a standard under Section 112 of the Act applies shall be emitted from any stationary source in violation of such standard.

11. Section 114(a)(1) of the Act authorizes the Administrator to require owners or operators of emission sources to submit specific information regarding facilities, establish and maintain records, make reports, sample emission points, and to install, use and maintain such monitoring equipment or methods in order to determine whether any person is in violation of the Act.

12. Pursuant to Sections 112 and 114 of the Act, the Administrator of EPA promulgated the "National Emission Standards for Hazardous Air Pollutants for Source Categories," Subpart A, 40 C.F.R. §§ 63.1–63.6 (General Provisions).

13. Pursuant to Sections 112 and 114 of the Act, EPA promulgated the Printing and Publishing MACT, 61 Fed. Reg. 27140 (May 30, 1996), with an effective date of May 30, 1999.

14. 40 C.F.R. § 63.1(a)(4) provides that each relevant standard in 40 C.F.R. Part 63 must identify explicitly whether each provision in the General Provision is or is not included in such relevant standard.

15. 40 C.F.R. § 63.820(a)(1) provides that the Printing and Publishing Regulations apply to any product and packaging rotogravure printing facility that is a major source of HAP emissions.

16. 40 C.F.R. § 63.822 defines “facility” as all contiguous or adjoining property that is under common ownership or control, including properties that are separated only by a road or other public right-of-way.

17. 40 C.F.R. § 63.822 defines “product and packaging rotogravure printing” as the production on a rotogravure press of any printed substrate not otherwise defined as publication rotogravure printing, including, but not limited to, folding cartons, flexible packaging, labels and wrappers, gift wraps, wall and floor coverings, upholstery, decorative laminates, and tissue products.

18. 40 C.F.R. § 63.2, which is listed as an applicable General Provision in Table 1 to Subpart KK, defines “affected source” 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.

19. Pursuant to 40 C.F.R. § 63.828(a)(1), the owner or operator of a product and packaging rotogravure facility shall monitor and inspect each control device to ensure proper operation and maintenance by following one of the procedures in paragraphs 40 C.F.R. § 63.828(a)(1)(i) through (a)(1)(iv).

20. 40 C.F.R. § 63.8(c), which is listed as an applicable General Provision in Table 1 to Subpart KK, provides that the owner or operator of an affected source shall maintain each continuous monitoring system (CMS) as specified in Part 63 or a relevant standard.

21. Pursuant to 40 C.F.R. § 63.828(a)(5), the owner or operator of a product and packaging rotogravure facility shall submit, to EPA and/or delegated authority, a Compliance Status Report that includes, among other things, specific monitoring procedures; shall set the operating parameter value or range of values that demonstrate compliance; and shall conduct monitoring in accordance with an approved Compliance Status Report.

22. Pursuant to 40 C.F.R. §§ 63.830(b)(6) and 63.10(b)(1), the latter of which is listed as an applicable General Provision in Table 1 to Subpart KK, the owner or operator of an affected source shall retain records in a form suitable and readily available for inspection.

23. Pursuant to 40 C.F.R. §§ 63.830(b)(6) and 63.10(e)(3), the latter of which is listed as an applicable General Provision in Table 1 to Subpart KK, the owner or operator of an affected source shall submit, to EPA and/or delegated authority, a semi-annual Summary Report that includes, among other things, operating parameter exceedances.

24. Section 502(a) of the Act provides that after the effective date of any permit program approved or promulgated pursuant to Title V of the Act, it shall be unlawful for any person to violate any requirement of a permit issued under Title V of the Act or to operate a Title V affected source, except in compliance with a permit issued by a permitting authority under Title V of the Act.



25. Section 502(d) of the Act requires each State to develop and submit to the Administrator a permit program meeting the requirements of Title V of the Act.

26. Section 503(a) of the Act provides that any source specified in Section 502(a) of the Act shall become subject to a permit program and shall be required to have a permit to operate.

27. Section 504(a) of the Act provides that a Title V permit issued to a source must include all regulations applicable to the source.

28. Section 504(c) of the Act provides that a Title V compliance certification submitted at the time of application and annually thereafter, shall include a certification regarding compliance with all applicable regulations and requirements applicable to the source.

29. In accordance with Section 502(d)(1) of the Act, New Jersey developed and submitted N.J.A.C. 7:27-22 (the New Jersey Title V Operating Permit Program) to meet the requirements of Title V of the Act and 40 C.F.R. Part 70, promulgated pursuant to Section 502(b) of the Act.

30. EPA granted interim approval of the New Jersey Title V Operating Permit Program, with an effective date of June 17, 1996. 61 Fed. Reg. 24715 (May 16, 1996).

31. EPA granted final full approval of the New Jersey Title V Operating Permit Program, with an effective date of November 30, 2001. 66 Fed. Reg. 63168 (December 5, 2001).

### **Findings of Fact**

32. Respondent is a corporation duly organized under the laws of New Jersey.

33. Respondent is the owner and/or operator of a facility located at 40 Vanderhoof Avenue, Rockaway, New Jersey 07866 (Facility).

34. EPA reviewed its files and New Jersey Department of Environmental Protection (DEP) files (EPA File Review) to determine whether the Facility:

- a. is a "facility," as defined by 40 C.F.R. § 63.822;
- b. emits one or more HAPs listed in Section 112(b)(1) of the Act;
- c. is a major source of HAP emissions, as defined by Section 112(a)(1) of the Act and 40 C.F.R § 63.2;
- d. conducts "product and packaging rotogravure printing," as defined by 40 C.F.R. § 63.822;
- e. is an "affected source," as defined by 40 C.F.R. § 63.2; and
- f. is subject to the Printing and Publishing MACT.

35. During the EPA File Review, EPA found that pursuant to Title V of the Act and New Jersey's Operating Permit Program, New Jersey issued the Facility a permit (Title V permit) # 26198.

36. Reference number 7 of Respondent's Title V permit requires that the owner or operator shall submit annual Title V compliance certifications for each applicable requirement.

37. Reference number 31 of Respondent's Title V permit includes 40 C.F.R. § 63.8(c) and § 63.10(e) as applicable requirements.

38. Reference number 32 of Respondent's Title V permit includes 40 C.F.R. § 63.8(c) as an applicable requirement.

39. Reference numbers 36 and 37 of Respondent's Title V permit require that the owner or operator shall comply, as applicable, with the standards as required in 40 C.F.R. Part 63, Subpart KK.

40. Reference number 40 of Respondent's Title V permit refers to 40 C.F.R. § 63.830(b) and requires that a summary report specified in 40 C.F.R. § 63.10(e)(3) shall be submitted on a semi-annual basis (i.e., once every six month period).

41. The Facility's Title V permit indicates the Facility includes property that is under common ownership or control.

42. The Facility's Title V permit indicates the Facility emits one or more HAPs.

43. The Facility's Title V permit indicates the Facility is a major source of HAP emissions.

44. Methyl ethyl ketone (MEK) was a listed HAP in Section 112(b)(1) of the Act at the time Roysons became subject to the Printing and Publishing MACT. EPA delisted MEK on December 19, 2005. (70 Fed. Reg. 75047)

45. The Facility's Title V permit indicates the Facility conducts product and packaging rotogravure printing.

46. The Facility's Title V permit indicates the Facility is an affected source.

47. The Facility's Title V permit indicates the Facility is subject to the Printing and Publishing Regulations.

48. During the EPA File Review, EPA found no documents that indicated Respondent had identified the operating parameter value, or range of values, for the regenerative thermal oxidizer (Control Device) located at the Facility.

49. During the EPA File Review, EPA found no documents that indicated Respondent had identified the methods used to determine compliance with the Printing and Publishing MACT.

50. During the EPA File Review, EPA found no documents that indicated Respondent had identified any exceedances of applicable standards and/or criteria of the Printing and Publishing Regulations.

51. On January 11, 2005 and February 16, 2005, an EPA representative conducted air compliance inspections (EPA Inspections) of the Facility to determine whether the Facility was in compliance with the Printing and Publishing Regulations.

52. During the EPA Inspections, EPA reviewed the Respondent's initial Total Permanent Enclosure "PTE" test report, on the stack test conducted July 7, 1993, which indicates that the Control Device has a 100% capture efficiency of emissions from the printing presses.

53. During the EPA Inspections, EPA reviewed the Respondent's initial compliance stack test report, on the test conducted on October 3 and 4, 2000, which indicates a removal efficiency of 98 % from the Control Device, but does not establish a minimum operating temperature value.

54. During the EPA Inspections, the EPA inspector found that the Respondent had not installed, calibrated, maintained, and operated, in accordance with manufacturer's specifications, a flow control position indicator that provides a record indicating whether the exhaust stream from the printing presses was directed to the Control Device or was diverted from the Control Device.

55. During the EPA Inspections, the EPA inspector asked for, but was not provided, copies of the Facility's semi-annual Summary Reports.

56. Following the EPA Inspection, on January 11, 2005 and February 16, 2005, the EPA inspector called the Facility operation manager and asked for an estimate of the cost to reprogram the position of the bypass valve of the thermal oxidizer.

**Count 1**

57. Paragraphs 1–56 are repeated and re-alleged as if set forth fully herein.

58. Respondent is a "person" within the meaning of Section 302(e) of the Act.

59. Respondent is subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act.

60. Respondent's Facility was a major source of HAPs.

61. Respondent is the owner and/or operator of a "facility," as defined by 40 C.F.R. § 63.822.

62. Respondent's Facility was an "affected source," as defined by 40 C.F.R. § 63.2. Respondent's Facility was a "major source" of HAP emissions, as defined by Section 112(a)(1) of the Act and 40 C.F.R. § 63.2.

63. Respondent's Facility was subject to the Printing and Publishing MACT, as provided by 40 C.F.R. § 63.820(a)(1).

64. Respondent conducts "product and packaging rotogravure printing" at the Facility, as defined by 40 C.F.R. § 63.822.

65. Respondent owns and/or operates four printing presses that were affected sources within the meaning of 40 C.F.R. § 63.821(a).

66. EPA finds, based upon the Findings of Fact set forth above, that Respondent's failure to install, operate and monitor using a flow control position

indicator is a violation of 40 C.F.R. § 63.828(a)(1), which is included in the Facility's Title V permit as an applicable requirement in reference numbers 36 and 37, and 40 C.F.R. § 63.8(c), which is included in the Facility's Title V permit as an applicable requirement in reference numbers 31 and 32.

67. Respondent's violation of 40 C.F.R. §§ 63.8(c) and 63.828(a)(1) and reference numbers 31, 32, 36, and 37 of the Facility's Title V permit is a violation of Sections 112, 114 and Title V of the Act.

68. Respondent's violations of Sections 112 and 114 of the Act result in Respondent being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act.

## **Count 2**

69. Paragraphs 1-68 are repeated and re-alleged as if set forth fully herein.

70. EPA finds, based upon the Findings of Fact set forth above, that Respondent's failure to set and monitor the operating parameter value, or range of values for the Control Device that demonstrate compliance with 40 C.F.R. § 63.824 through § 63.825 is a violation of 40 C.F.R. § 63.828(a)(5), which is included in the Facility's Title V permit as an applicable requirement in reference numbers 36 and 37, and 40 C.F.R. § 63.8(c), which is included in the Facility's Title V permit as an applicable requirement in reference numbers 31 and 32.

71. Respondent's violation of 40 C.F.R. §§ 63.8(c) and 63.828(a)(5) and reference numbers 31, 32, 36, and 37 of the Facility's Title V permit is a violation of Sections 112, 114 and Title V of the Act.

72. Respondent's violations of Sections 112 and 114 of the Act result in Respondent being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act.

### **Count 3**

73. Paragraphs 1-72 are repeated and re-alleged as if set forth fully herein.

74. EPA finds, based upon the Findings of Fact set forth above, that Respondent's failure to provide to EPA upon request and to submit to the permitting authority, semi-annual Summary Reports (which include, among other things, exceedances of applicable standards and/or criteria) are violations of 40 C.F.R. § 63.830(b)(6), which is included as an applicable requirement in the Facility's Title V permit reference numbers 36, 37 and 40, and 40 C.F.R. § 63.10(b)(1) and (e)(3), which are included as an applicable requirement in the Facility's Title V permit reference number 31.

75. Respondent's violation of 40 C.F.R. §§ 63.830(b)(6) and 63.10(b)(1) and (e)(3) and reference numbers 31, 36, 37 and 40 of the Facility's Title V permit are violations of Sections 112, 114 and Title V of the Act.

76. Respondent's violations of Sections 112 and 114 of the Act result in Respondent being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act.

### **Count 4**

77. Paragraphs 1-76 are repeated and re-alleged as if set forth fully herein.

78. EPA finds, based upon the Findings of Fact set forth above, that Respondent's failure to submit complete annual Title V compliance certifications for

each of the years 2003, 2004, and 2005 are violations of reference number 7 of the Facility's Title V permit.

79. Respondent's violation of reference number 7 of the Facility's Title V permit is a violation of Section 114 and Title V of the Act.

80. Respondent's violations of Sections 114 and Title V of the Act result in Respondent being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act.

### **Proposed Civil Penalty**

Section 113(d) of the Act provides that the Administrator may assess a civil administrative penalty of up to \$25,000 per day for each violation of the Act. The Debt Collection Improvement Act of 1996 (DCIA) requires EPA to periodically adjust its civil monetary penalties for inflation. On December 31, 1996 and February 13, 2004, EPA adopted regulations entitled Civil Monetary Penalties Inflation Adjustment Rule, 40 C.F.R. Part 19 (Part 19). The DCIA provides that the maximum civil penalty per day should be adjusted up to \$27,500 for violations that occurred on or after January 30, 1997 and up to \$32,500 for violations that occurred on or after March 15, 2004. Part 19 provides that the maximum civil penalty should be upwardly adjusted 10% for violations which occurred on or after January 30, 1997 and further adjusted an additional 17.23% for violations which occurred on or after March 15, 2004, for a total of 28.95%.

In determining the amount of penalty to be assessed, Section 113(e) of the Act requires that the Administrator consider the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith



efforts to comply, the duration of the violation as established by any credible evidence, the payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation and other factors as justice may require.

Respondent's violations alleged in Counts 1, 2, 3 and 4 result in Respondent being subject to the assessment of administrative penalties pursuant to Section 113(d) of the Act. The proposed penalty has been prepared in accordance with the criteria in Section 113(e) of the Act, and in accordance with the guidelines set forth in EPA's "Clean Air Act Stationary Source Civil Penalty Policy" (CAA Penalty Policy), which reflects EPA's application of the factors set forth in Section 113(e) of the Act.

EPA proposes a total penalty of \$341,497 for the four counts alleged in this Complaint. Below are brief narratives explaining the reasoning behind the penalty proposed, along with the reasoning behind various general penalty factors and adjustments that were used in the calculation of the total penalty amount.

### **Preliminary Deterrence Component of Proposed Penalty**

The CAA Penalty Policy indicates that the preliminary deterrence amount is determined by combining the gravity component and the economic benefit component of the penalty calculated. The gravity component includes, as applicable, penalties for actual harm, importance to the regulatory scheme, size of violator and adjustments to the gravity component for degree of willfulness or negligence, degree of cooperation, prompt reporting, correction, history of non-compliance and environmental damage. Actual harm is calculated, where applicable, in accordance with the level of the

violation, the toxicity of pollutant, the sensitivity of the environment, and the length of time of violation.

**Gravity Component:**

**Toxicity of Pollutant**

The violations alleged in this Complaint involve a hazardous air pollutant (HAP) MEK, which was listed in Section 112(b)(1) of the Act as a HAP at the time that Roysons became subject to the Printing and Publishing MACT. EPA delisted MEK on December 19, 2005. 70 Fed. Reg. 75047. While the Facility is no longer classified as “major” for its HAPs emissions, it was subject to the Printing and Publishing MACT for the time period alleged in this Complaint. The CAA Penalty Policy indicates that \$15,000 should be proposed for each HAP for which there is a violation. Therefore, EPA proposes a \$15,000 penalty for the relevant HAP.

**Count 1:** Violation of 40 C.F.R. § 63.8(c) and 40 C.F.R. § 63.828(a)(1) and the Facility’s Title V permit reference numbers 31, 32, 36 and 37

EPA proposes a penalty of \$50,000 for Respondent’s failure to install, operate and monitor using a flow control position indicator to demonstrate continuous compliance, as provided by 40 C.F.R. § 63.828(a)(1)(i). In the “Importance to Regulatory Scheme” section, the CAA Penalty Policy provides for an assessment of \$15,000 for monitoring violations. The four printing presses were operated out of compliance with 40 C.F.R. § 63.828(a)(1) from at least October 2002 through December 2005. The CAA Penalty Policy directs that a \$35,000 penalty be proposed for periods of non-compliance of greater than 35 months. Therefore, \$50,000 is the total proposed for these monitoring violations.

**Count 2:** Violation of 40 C.F.R. § 63.8(c) and 40 C.F.R. § 63.828(a)(5) and the Facility's Title V permit reference numbers 31, 32, 36 and 37

The CAA Penalty Policy directs that a penalty of \$15,000 be proposed for work practice and monitoring requirements. Respondent's failure to set, operate and monitor parameters could be classified as a work practice or a monitoring violation. In addition, EPA has determined that Respondent's failure to set and monitor the control device at or above a parameter established during an initial performance test is a complete disregard of the monitoring requirements in 40 C.F.R. § 63.8(c) and 40 C.F.R. § 63.828(a)(5) of the Printing and Publishing MACT. In accordance with the CAA Penalty Policy, EPA is proposing a penalty of \$15,000. In addition, the CAA Penalty Policy directs that where a violation persists, a penalty be proposed for length of violation. The violation alleged in this Count occurred over a period of more than 35 months. The CAA Penalty Policy directs that a penalty of \$35,000 be proposed for violations which occurred for this length of time for a total of \$50,000 for this component.

**Count 3:** Violation of 40 C.F.R. § 63.10(b)(1) and (e)(3) and 40 C.F.R. § 63.830(b)(6) as well as the Facility's Title V permit reference numbers 31, 36, 37 and 40

EPA proposes a penalty of \$50,000 for Respondent's failure to provide, to EPA upon request, and submit, to the permitting authority, semi annual reports, as provided by 40 C.F.R. § 63.830(b)(6). In the "Importance to Regulatory Scheme" section, the CAA Penalty Policy provides for an assessment of \$15,000 for reporting violations. The Respondent didn't provide reports upon request at the EPA Inspections in accordance with 40 C.F.R. § 63.10(b)(1) and didn't submit reports in accordance with 40 C.F.R. §§ 63.10(e)(3) and 63.830(b)(6) from at least October 2002 through December 2005.

The CAA Penalty Policy dictates a \$35,000 penalty be proposed for periods of non-compliance greater than 31 months, which is the length of time in which reports were not submitted. Therefore, \$50,000 is the total proposed for these recordkeeping and reporting violations.

**Count 4: Violation of reference number 7 of Title V Permit**

EPA proposes a penalty of \$45,000 for Respondent's failure to submit to EPA complete annual Title V compliance certifications for each of the years 2003, 2004, and 2005. In the "Importance to Regulatory Scheme" section, the CAA Penalty Policy provides for an assessment of \$15,000 for reporting violations. EPA proposes \$15,000 per violation for a total \$45,000 penalty for the annual Title V compliance certification violations.

**Size of Violator**

The CAA Penalty Policy directs that a penalty be proposed that takes into account the size of violator, determined by the violator's net worth. Based on information obtained, Respondent's net worth is estimated to fall within the \$5-20 million range for which the Penalty Policy directs a \$20,000 size of violator penalty.

**Title V Adjustment**

The CAA Penalty Policy indicates that the gravity component of a penalty can be aggravated up to 100% in consideration of, among other things, the extent to which the violator knew of the legal requirement. In this instance, Respondent included its obligation to comply with the MACT Subpart KK regulations in its Title V application and was further put on notice of the requirements in its Title V Permit. The permit was in

effect throughout the entire period of time in which the MACT Subpart KK violations, alleged here, occurred. Therefore, EPA proposes the penalties for the alleged violations of the MACT Subpart KK regulations be aggravated by 30%, totaling \$45,000.

### **Inflation Adjustment**

Pursuant to the Debt Collection Improvement Act (DCIA), 31 U.S.C. §§ 3701 *et seq.*, and 40 C.F.R. Part 19, the regulation promulgated pursuant to the DCIA, the CAA Penalty Policy "preliminary deterrence" amount should be adjusted 10% for inflation for all violations occurring prior to March 15, 2004 and further adjusted an additional 17.23% for all violations occurring on and after March 15, 2004, for a total adjustment of 28.95%. Respondent's violations began, as early as, October 2002 and continue to December 2005. Inflation adjustments for violations were done in accordance with the DCIA requirements in developing the proposed penalty totaling \$56,239.

### **Economic Benefit**

In addition to the Gravity component of the proposed penalties, the CAA Penalty Policy directs that EPA determine the economic benefit derived from non-compliance. The CAA Penalty Policy explains that the economic benefit component of the penalty should be derived by calculating the amount the violator benefited from delayed and/or avoided costs. EPA calculates the economic benefit using a computer program that is called the BEN Model.

For Count 1, EPA estimates, based on communications with the Facility operation manager, that it would cost \$600 to reprogram the position of the bypass valve of the thermal oxidizer.

For Count 2, EPA estimates, based on Agency experience, that it would cost \$15,000 to stack test a thermal oxidizer in order to establish operating parameters.

For Count 3, EPA estimates it would cost the Facility \$2,000 to hire a consultant or for labor costs to prepare and submit semi-annual reports.

For Count 4, EPA estimates that the costs to it would cost the Facility \$2,000 to hire a consultant or for labor costs to prepare and submit complete annual reports.

EPA entered the cost estimates into the Ben Model, which calculated the economic benefit associated with Counts 1-4 as \$10,258.

In summary, EPA proposes a total penalty of **\$341,497** for the violations alleged in this Complaint.

#### **Notice of Opportunity to Request a Hearing**

The hearing in this matter is subject to the Administrative Procedure Act, 5 U.S.C. §§ 552 *et seq.* The procedures for this matter are found in EPA's Consolidated Rules of Practice, a copy of which is enclosed with the transmittal of this Complaint. References to specific procedures in this Complaint are intended to inform you of your right to contest the allegations of the Complaint and the proposed penalty and do not supersede any requirement of the Consolidated Rules of Practice.

You have a right to request a hearing: (1) to contest any material facts set forth in the Complaint; (2) to contend that the amount of the penalty proposed in the Complaint is inappropriate; or (3) to seek a judgment with respect to the law applicable to this matter. In order to request a hearing you must file a written Answer to this Complaint along with the request for a hearing with the EPA Regional Hearing Clerk

within thirty (30) days of your receipt of this Complaint. The Answer and request for a hearing must be filed at the following address:

Karen Maples  
Regional Hearing Clerk  
U.S. Environmental Protection Agency - Region 2  
290 Broadway - 16th Floor  
New York, New York 10007-1866

A copy of the Answer and the request for a hearing, as well as copies of all other papers filed in this matter, are to be served on EPA to the attention of EPA counsel at the following address:

Peter J. Putignano  
Assistant Regional Counsel  
Office of Regional Counsel, Air Branch  
U.S. Environmental Protection Agency - Region 2  
290 Broadway - 16th Floor  
New York, New York 10007-1866

Your Answer should, clearly and directly, admit, deny, or explain each factual allegation contained in this Complaint with regard to which you have any knowledge. If you have no knowledge of a particular factual allegation of the Complaint, you must so state and the allegation will be deemed to be denied. The Answer shall also state: (1) the circumstances or arguments which you allege constitute the grounds of a defense; (2) whether a hearing is requested; and (3) a concise statement of the facts which you intend to place at issue in the hearing.

If you fail to serve and file an Answer to this Complaint within thirty (30) days of its receipt, Complainant may file a motion for default. A finding of default constitutes an admission of the facts alleged in the Complaint and a waiver of your right to a hearing. The total proposed penalty becomes due and payable without further proceedings thirty (30) days after the issue date of a Default Order.

### **Settlement Conference**

EPA encourages all parties against whom the assessment of civil penalties is proposed to pursue the possibilities of settlement by informal conferences. However, conferring informally with EPA in pursuit of settlement does not extend the time allowed to answer the Complaint and to request a hearing. Whether or not you intend to request a hearing, you may confer informally with the EPA concerning the alleged violations or the amount of the proposed penalty. If settlement is reached, it will be in the form of a written Consent Agreement which will be forwarded to the Regional Administrator with a proposed Final Order. You may contact EPA counsel, Peter J. Putignano at (212) 637-3244 or at the address listed above, to discuss settlement. If Respondent is represented by legal counsel in this matter, Respondent's counsel should contact EPA.

### **Payment of Penalty in lieu of Answer, Hearing and/or Settlement**

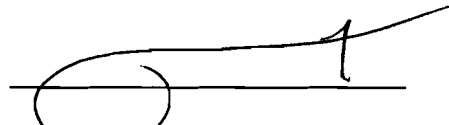
Instead of filing an Answer, requesting a hearing, and/or requesting an informal settlement conference, you may choose to pay the full amount of the penalty proposed in the Complaint. Such payment should be made by a cashier's or certified check payable to the Treasurer, United States of America, marked with the docket number and the name of the Respondent(s) which appear on the first page of this Complaint. The check must be mailed to:

U.S. Environmental Protection Agency  
Fines and Penalties  
Cincinnati Finance Center  
P.O. Box 979077  
St Louis, MO 63197-9000



A copy of your letter transmitting the check and a copy of the check must be sent simultaneously to EPA counsel assigned to this case at the address provided under the section of this Complaint entitled Notice of Opportunity to Request a Hearing. Payment of the proposed penalty in this fashion does not relieve one of responsibility to comply with any and all requirements of the Clean Air Act.

Dated: SEPTEMBER 23, 2007



Dore LaPosta, Director  
Division of Enforcement and  
Compliance Assistance

To: Roy Ritchie, President  
Roysons Corporation  
40 Vanderhoof Avenue  
Rockaway, NJ 07866

cc: Edward Choromanski, Administrator  
Air Compliance & Enforcement  
New Jersey Department of Environmental Protection  
401 East State Street, 4<sup>th</sup> Floor  
P.O. Box 422  
Trenton, New Jersey 08625

Michael Papp, Regional Enforcement Officer  
Northern Regional Office  
New Jersey Department of Environmental Protection  
7 Ridgedale Avenue  
Cedar Knolls, New Jersey 07927