



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

APR 24 2008

REPLY TO THE ATTENTION OF:
~~AE-17~~

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Heather Klesch
Environmental Manager
Clow Water Systems
2266 South Sixth Street
Coshocton, Ohio 43812

Re: Finding and Notice of Violation at Clow Water Systems, a division of McWane, Inc., Coshocton, Ohio

Dear Ms. Klesch:

This is to advise you that the United States Environmental Protection Agency (U.S. EPA) has determined that Clow Water Systems (Clow), a division of McWane, Inc., at 2266 South Sixth Street, Coshocton, Ohio (facility) is in violation of the Clean Air Act (CAA) and associated State pollution control requirements. A list of the requirements violated is provided below. We are today issuing to you a Finding of Violation and Notice of Violation (FOV/NOV) for these violations.

The CAA requires the development of Primary and Secondary National Ambient Air Quality Standards (NAAQS) to protect public health and welfare. To attain and maintain these standards, each State is required to develop an implementation plan. Among other things, each implementation plan must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. The State of Ohio has incorporated such a permitting program into its State Implementation Plan (SIP). Under this program, owners or operators must obtain a permit to install (PTI) from the director of the Ohio Environmental Protection Agency (Ohio EPA) before beginning installation of a new source of air pollutants or the modification of an existing air contaminant source.

Title I, Part C of the CAA requires that all SIP permit programs contain rules regulating the construction and modification of major stationary sources in areas that have achieved attainment with the NAAQS. These rules are known as Prevention of Significant Deterioration (PSD). Under PSD rules, any major stationary source must obtain a preconstruction permit prior to commencing construction on any modification, if the modification is major in that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has achieved the NAAQS for that pollutant. All preconstruction permits issued to sources subject to PSD must require (1) the application of Best Available Control Technology

(BACT) and (2) a demonstration that the proposed modification does not cause or contribute to a violation of the NAAQS or cause any other significant deterioration of air quality. The State of Ohio has incorporated PSD rules into its SIP.

In addition, the SIP requires that no person shall emit carbon monoxide gases generated during the operation of a grey iron cupola, unless they are burned at 1,300 degrees Fahrenheit for 0.3 seconds or greater in a direct-flame afterburner or equivalent device equipped with an indicating pyrometer which is positioned in the working area at the operator's eye level.

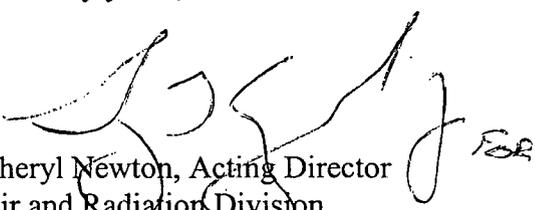
U.S. EPA finds that Clow's facility violated the above listed CAA rules and regulations. Clow's facility is also subject to applicable requirements under the CAA that are listed in its Title V permit including, among other things, operational requirements related to the pressure drop across the scrubber and monitoring requirements related to the static pressure drop across the scrubber and the afterburner temperature while the cupola is in operation. U.S. EPA finds that Clow's facility violated these Title V permit requirements.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The U.S. EPA contacts in this matter are Sheila Desai and Chris Liszewski. You may call them at (312) 353-4150 and (312) 886-4670, respectively, if you wish to request a conference. U.S. EPA hopes that this FOV/NOV will encourage Clow's compliance with the requirements of the Clean Air Act.

Sincerely yours,


Cheryl Newton, Acting Director
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Agency

Bruce Weinberg, APC Manager
Southeast District Office
Ohio Environmental Protection Agency

W. Warren Hamel, Esq., Venable LLP

William Hayes, Vorys, Sater, Seymour and Pease LLP

United States Environmental Protection Agency
Region 5

IN THE MATTER OF:)
)
Clow Water Systems) FINDING OF VIOLATION and
Coshocton, Ohio) NOTICE OF VIOLATION
)
Proceedings Pursuant to) EPA-5-08-OH-12
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)
)

FINDING AND NOTICE OF VIOLATION

Clow Water Systems (you or Clow), a division of McWane, Inc., owns and operates an iron foundry at 2266 South Sixth Street, Coshocton, Ohio (facility).

United States Environmental Protection Agency (U.S. EPA) is sending this Finding of Violation and Notice of Violation (FOV/NOV or Notice) to you because you conducted a major modification at your facility in Coshocton, Ohio, without obtaining a PSD permit as required by Prevention of Significant Deterioration (PSD) rules. Such a PSD permit would have required the installation and continuous operation of Best Available Control Technology (BACT) for control of particulate matter (PM) and volatile organic compounds (VOC), on the cupola (P901). The underlying statutory and regulatory requirements include provisions of the Clean Air Act (the Act or CAA), its implementing regulations and the Ohio State Implementation Plan (Ohio SIP). This Notice is also for failing comply with Ohio Admin. Code § 3745-21-08, which is incorporated into the Ohio SIP, as well as, operational and monitoring requirements listed in the facility's Title V Permit.

Section 113 of the Act provides you with the opportunity to request a conference with us to discuss the violations alleged in the FOV/NOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for the facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

Explanation of Violations

1. The following provisions of the CAA, its implementing regulations and the Ohio SIP are relevant to this NOV/FOV:

Prevention of Significant Deterioration

- a. Part C of Title I of the CAA and the PSD regulations implementing Part C, at 40 C.F.R. § 52.21, prohibit a major stationary source from constructing a modification without first obtaining a PSD permit, if the modification is major in

that it will result in a significant net increase in emissions of a regulated pollutant, and if the source is located in an area which has achieved the National Ambient Air Quality Standards (NAAQS) for that pollutant. Part C and its implementing regulations further require that a source subject to PSD regulations install BACT.

- b. Sections 110(a) and 161 of the CAA, 42 U.S.C. §§ 7410(a) and 7471, require states to adopt a SIP that contains emission limitations and such other measures as may be necessary to prevent significant deterioration of air quality in areas designated as attainment or unclassifiable.
- c. A state may comply with Sections 110(a) and 161 of the CAA by having its own PSD regulations approved as part of its SIP by U.S. EPA, which must be at least as stringent as those set forth at 40 C.F.R. § 51.166.
- d. If a state does not have a PSD program that has been approved by U.S. EPA and incorporated into the SIP, the federal PSD regulations set forth at 40 C.F.R. § 52.21 may be incorporated by reference into the SIP. 40 C.F.R. § 52.21(a).
- e. On May 1, 1980, U.S. EPA disapproved Ohio's proposed PSD program, incorporated by reference the PSD regulations of 40 C.F.R. § 52.21(b) through (w) into the Ohio SIP and delegated to Ohio the authority to implement the federal PSD program incorporated into the Ohio SIP. See 40 C.F.R. § 52.1884.
- f. On October 10, 2001, U.S. EPA conditionally approved revisions to the Ohio SIP to incorporate Ohio's PSD program, effective October 10, 2001. 66 Fed. Reg. 51570 (October 10, 2001). On January 22, 2003, U.S. EPA granted final approval for Ohio's PSD program, effective March 10, 2003. 68 Fed. Reg. 2909 (January 22, 2003).
- g. OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (1) (i) (a) defines a "major stationary source" as any stationary source within one of 28 source categories which emits, or has the potential to emit, 100 tons per year or more of any air pollutant subject to regulation under the CAA. Secondary metal production plants are included among the 28 source categories.
- h. OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (2) (i) defines a "major modification" as any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under CAA.
- i. OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (3) (i) defines "net emissions increase" as "the amount by which the sum of the following exceeds zero:
 - i. Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

- ii. Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable."
- j. In reference to PM, OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (23) (i) defines significant net emissions increase as any increase in PM of 25 tons or more per year.
- k. In reference to VOC, OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (23) (i) define significant net emissions increase as any increase in VOC of 40 tons or more per year.
- l. OAC Rule 3745-31-12(B) and 40 C.F.R. § 52.21(n) require any applicant for a permit to modify a stationary source to provide all relevant information to allow the permitting authority to perform an analysis or make the determination required in order to issue the appropriate permit.
- m. OAC Rule 3745-31-15 and 40 C.F.R. § 52.21(j)(3) require a major modification to apply best available control technology for each regulated New Source Review pollutant for which it would result in a significant net emissions increase at the source.
- n. OAC Rule 3745-31-13 and 40 C.F.R. § 52.21(a)(2)(iii) [formerly 40 C.F.R. § 52.21(i)] provide that no major modification shall begin actual construction without a permit that states that the major modification will meet the requirements of OAC Rules 3745-31-01 through 3745-31-20 [40 C.F.R. § 52.21(j) through (r)(5)].

Requirements for Ohio SIP Permits to Install

- o. Permit to Install (PTI) rules in the Ohio SIP at OAC Rule 3745-31-02(A) require any person that installs a new source of air pollutants or modifies an air contaminant source to first obtain a permit to install from the Ohio EPA.

Requirements for Title V Operating Permits

- p. Title V of the CAA establishes an operating permit program for major sources. The purpose of Title V is to ensure that all "applicable requirements" for compliance with the CAA, including PSD requirements, are collected in one place.
- q. The Title V permit program requires that each Title V permit include enforceable emission limitations and such other conditions as are necessary to assure compliance with "applicable requirements" of the CAA and the requirements of the applicable SIP. "Applicable requirements" include any applicable PSD requirements.

- r. Under Title V, any owner or operator of a source subject to the Title V program is required to submit a timely and complete permit application that contains information sufficient to determine the applicability of any applicable requirements (including any requirement to meet BACT pursuant to PSD), certifies compliance with all applicable requirements, provides information that may be necessary to determine the applicability of other applicable requirements of the CAA and contains a compliance plan for all applicable requirements for which the source is not in compliance.
- s. Under Title V, any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application is required to promptly submit such supplementary facts or corrected information upon becoming aware of such failure or incorrect submittal.
- t. Title V permit application requirements are codified at Section 503 of the CAA, 42 U.S.C. 7661b, with implementing regulations at 40 C.F.R. Part 70. Ohio's Title V permit program is codified at OAC Rule 3745-77.

Afterburner Operational Requirements

- u. On October 31, 1980, U.S. EPA approved Ohio Admin. Code § 3745-21-08 as part of the federally enforceable SIP for Ohio. 45 Fed. Reg. 72140.
- v. Ohio Admin. Code § 3745-21-08 as incorporated into the Ohio SIP applies to all new stationary sources regardless of location.
- w. Ohio Admin. Code § 3745-21-08 as incorporated into the Ohio SIP provides that “no person shall emit the carbon monoxide gases generated during the operation of a grey iron cupola . . . unless they are burned at 1,300 degrees Fahrenheit for 0.3 seconds or greater in a direct-flame afterburner or equivalent device”
- x. On October 1, 1982, U.S. EPA approved Ohio Admin. Code § 3745-15-01 as part of the federally enforceable SIP for Ohio. 47 Fed. Reg. 43377.
- y. Ohio Admin. Code § 3745-15-01, as incorporated into the Ohio SIP, defines “person”, in part, as “any . . . public or private corporation, individual, partnership, or other entity.”
- z. Ohio Admin. Code § 3745-15-01, as incorporated into the Ohio SIP, defines “new source” as any source the construction or modification of which commenced on or after February 15, 1972.

Factual Background

- 2. On or about 1989 and 1998, Clow modified their cupola (P901). As a result of the modifications, PM and VOC emissions significantly increased.

Prevention of Significant Deterioration

3. The change described in Paragraph 2 increased emissions of PM greater than the significance level of 25 tons per year at OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (23) (i) at the Clow facility. Therefore, the change resulted in a "major modification", as defined in OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (2), at a "major stationary source", as defined in OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (1), triggering the requirement to (1) obtain a PSD PTI, (2) apply BACT on P901, and (3) demonstrate that the proposed change did not cause a significant deterioration in air quality.
4. The change described in Paragraph 2 increased emissions of VOC greater than the significance level of 40 tons per year at OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (23) (i) at the Clow facility. Therefore, the change resulted in a "major modification", as defined in OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (2), at a "major stationary source", as defined in OAC Rule 3745-31-01 and 40 C.F.R. § 52.21(b) (1), triggering the requirement to (1) obtain a PSD PTI, (2) apply BACT on P901, and (3) demonstrate that the proposed change did not cause a significant deterioration in air quality.
5. Clow continuously violates PSD rules at OAC Rules 3745-31-01 through 3745-31-20 and 40 C.F.R. § 52.21(j) through (r) because it continues to operate its cupola without: (1) a PSD PTI; (2) BACT control equipment; and (3) demonstrating that the change described in Paragraph 2 did not cause a significant deterioration in air quality.
6. A BACT Determination prepared for Clow Water Systems Company by RMT dated May 2002, revised January 2004 was submitted to Ohio EPA.
7. U.S. EPA, Region 5, has reviewed the BACT Determination described in Paragraph 6 and has found that the BACT analysis for control of particulate matter is deficient. It is inconsistent with U.S. EPA's guidance entitled New Source Review Workshop Manual – Prevention of Significant Deterioration and Nonattainment Area Permitting (<http://www.epa.gov/region07/programs/artd/air/nsr/nsrmemos/1990wman.pdf>). Clow failed to incorporate the following into their BACT analysis:
 - a. Chapter B.III.A. Identify all Control Technologies. - The control alternatives should include not only existing controls for the source category in question, but also (through technology transfer) controls applied to similar source categories and gas streams, and innovative control technologies.
 - b. Chapter B.IV.D.2. Cost/Economic Impacts Analysis – Where a control technology has been successfully applied to similar sources in a source category, an applicant should concentrate on documenting significant cost differences, if any, between the application of the control technology on those other sources and the particular source under review.

- c. Chapter B.IV.D.2.a. Estimating the Costs of Control – Before costs can be estimated, the control system design parameters must be specified....In general, the BACT analysis should present vendor-supplied parameters. Potential sources of other data on design parameters are BID documents used to support NSPS development, control technique guidelines documents, cost manuals developed by EPA, or control data in trade publications....The basis for equipment cost estimates also should be documented, either with data supplied by an equipment vendor (i.e., budget estimates or bids) or by a referenced source (such as the OAQPS Control Cost Manual)....Costs should also be site specific.
- d. Chapter B.IV.D.2.b Cost Effectiveness – Average cost effectiveness (total annualized costs of control divided by annual emission reductions, or the difference between the baseline emission rate and the controlled emission rate) is a way to present the costs of control. The baseline emissions rate represents a realistic scenario of upper boundary uncontrolled emissions for the source. The NSPS/NESHAP requirements or the application of controls, including other controls necessary to comply with State or local air pollution regulations, are not considered in calculating the baseline emissions.
- e. Chapter B.IV.D.3 Environmental Impact Analysis - The environmental impacts portion of the BACT analysis concentrates on impacts other than impacts on air quality (i.e., ambient concentrations) due to emissions of the regulated pollutant in question, such as solid or hazardous waste generation, discharges of polluted water from a control device, visibility impacts, or emissions of unregulated pollutants....The applicant should identify any significant or unusual environmental impacts associated with a control alternative that have the potential to affect the selection or elimination of a control alternative.

SIP Permits to Install

- 8. Clow continuously violates OAC Rule 3745-31-02(A) because the installation of P901 constituted a modification without first obtaining a permit to install from the director of the Ohio EPA.

Title V Operating Permits

- 9. On June 27, 1996, Clow submitted a Title V permit application to OEPA for its Facility. Clow subsequently submitted revised applications on May 10, 1998, September 8, 1998 and February 19, 1999. On June 8, 2000, OEPA issued a Title V permit for the Clow Facility.
- 10. Clow continuously violates Title V permitting requirements at Section 503 of the CAA and 40 C.F.R. Part 70 because it has yet to submit a complete application for a Title V operating permit that identifies all applicable requirements, that accurately certifies compliance with such requirements, and that contains a compliance plan for all applicable requirements for which it is not in compliance (including the requirement to meet BACT pursuant to a new BACT determination under PSD, and the emission of PM

and VOC from P901). Furthermore, Clow has yet to supplement and/or correct its Title V permit application with supplementary facts and corrected information regarding the requirement to meet BACT pursuant to a new BACT determination under PSD, and the emission of PM or VOC from P901.

11. The Title V permit for the Clow Facility includes the following operational restrictions:

“The pressure drop across the scrubber shall be continuously maintained within a range of 35 to 60 inches of water column at all times while the emissions unit is in operation.”

“Emissions unit gases shall be burned at 1300 degrees Fahrenheit in a direct flame afterburner or equivalent device, designed for a minimum of 0.3 second residence time.”

The Title V permit also requires Clow to “properly install, operate and maintain equipment to continuously monitor the static pressure drop across the scrubber and the afterburner temperature while the emissions unit is in operation.”

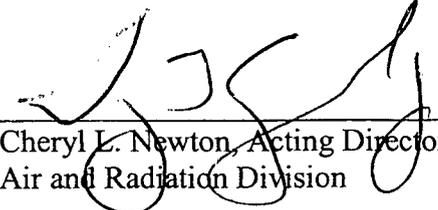
12. On 464 days from the third quarter of 2000 through the first quarter of 2007, Clow discharged carbon monoxide gases generated during the operation of its cupola furnace that were not burned at 1,300 degrees Fahrenheit for 0.3 seconds or greater in a direct-flame afterburner or equivalent device in violation of OAC 3745-21-08(D) and the Title V permit.
13. Clow failed to maintain the pressure drop across the scrubber as required by the Title V permit on 262 days from the third quarter of 2000 through the first quarter of 2007.
14. Clow failed to operate equipment to continuously monitor the afterburner temperature on 67 days from the fourth quarter of 2001 through the first quarter of 2007.
15. Clow failed to operate equipment to continuously monitor the pressure drop on 59 days from the third quarter of 2000 through the first quarter of 2007.

Environmental Impact of Violations

16. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.
17. Emission of volatile organic compounds contributes to the formation of ground-level ozone and smog. Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame the linings of the lungs. Repeated exposure may permanently scar lung tissue. Groundlevel ozone can have detrimental effects on plants and ecosystems. These effects include: interfering with

the ability of sensitive plants to produce and store food, making them more susceptible to certain diseases, insects, other pollutants, competition and harsh weather; damaging the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, national parks, and recreation areas; and reducing crop yields and forest growth, potentially impacting species diversity in ecosystems.

1/24/08
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division FOR

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-08-OH-12, by Certified Mail, Return Receipt Requested, to:

Heather Klesch
Environmental Manager
Clow Water Systems
2266 South Sixth St.
Coshocton, OH 43812

I also certify that I sent copies of the Finding of Violation and Notice of Violation by first class mail to:

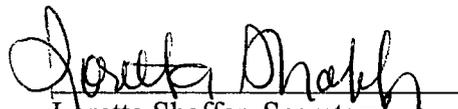
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on the 25 day of April, 2008.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0187 6213