



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

SEP 29 2004

REPLY TO THE ATTENTION OF  
(AE-17.T)

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

Tom Baumgartner, Director Environmental  
Mercury Marine  
W6250 Pioneer Road  
Fond du Lac, Wisconsin 54936

**Re: Finding of Violation Mercury Marine in Fond du Lac,  
Wisconsin**

Dear Mr. Baumgartner:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Finding of Violation (FOV) to Mercury Marine (you). We find that you have violated Section 112 of the Clean Air Act, 42 U.S.C. § 7412, at your Fond du Lac, Wisconsin facility

We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the 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 attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

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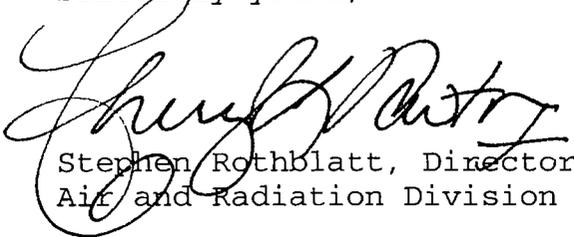
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The U.S. EPA contact in this matter is Tanya Boomer. You may call her at (312) 353-4145 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,



Stephen Rothblatt, Director  
Air and Radiation Division

Enclosure

cc: Imelda Stamm, Supervisor  
Northeast Region  
625 E. County Road Y - Suite 700  
Oshkosh, WI 54901-9731

United States Environmental Protection Agency  
Region 5

IN THE MATTER OF: )  
 )  
Mercury Marine, ) **FINDING OF VIOLATION**  
Fond du Lac, Wisconsin )  
 ) **EPA-5-04-WI-12**  
 )  
Proceedings Pursuant to )  
the Clean Air Act, )  
42 U.S.C. §§ 7401 et seq. )

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**FINDING OF VIOLATION**

The United States Environmental Protection Agency finds that Mercury Marine is violating Section 112 of the Clean Air Act, 42 U.S.C. § 7412. Specifically, Mercury Marine is violating the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Secondary Aluminum Production at 40 C.F.R. Part 63, Subpart RRR as follows:

**Regulatory Authority**

1. The NESHAP for Secondary Aluminum Production applies to Mercury Marine.
2. The NESHAP, at 40 C.F. R. § 63.1500, applies to the owner or operator of each secondary aluminum production facility as defined in Section 63.1503.
3. 40 C.F.R. § 63.1503 defines a secondary aluminum production facility 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 (that is, melting, holding, sweating, refining, fluxing, or alloying), recovery of aluminum from dross, in-line fluxing, or dross cooling.
4. Pursuant to 40 C.F.R. § 63.1500(b), the requirements of Subpart RRR pertaining to dioxin and furan (D/F) emissions and the associated operating, monitoring, reporting and recordkeeping requirements apply to affected sources, located at each new and existing facility that is a major source of hazardous air

pollutants as defined in 40 C.F.R. § 63.2, including among other things, thermal chip dryers.

5. The NESHAP, at 40 C.F.R. § 63.1506(a), requires the owner or operator to operate all new and existing affected sources and control equipment according to the requirements in 40 C.F.R. § 63.1506.

6. The NESHAP, at 40 C.F.R. § 63.1510(b), requires the owner or operator of an existing affected source to prepare and implement an Operation, Maintenance, and Monitoring (OM&M) Plan by March 24, 2003.

7. The NESHAP, at 40 C.F.R. § 63.1510(e), requires the owner or operator of an affected source or emission unit subject to an emission limit in kg/Mg (lb/ton) or  $\mu\text{g}/\text{Mg}$  (gr/ton) of feed/charge to install, calibrate, operate, and maintain a device to measure and record the total weight of feed/charge to, or the aluminum production from, the affected source or emission unit, or to use an approved procedure to determine the total weight of feed/charge to, or aluminum production from, the affected source or emission unit.

8. The NESHAP, at 40 C.F.R. § 63.1511(b), requires the owner or operator of an existing affected source to perform tests on all its affected emission units by March 24, 2003 and list the results of those tests in its compliance report.

9. The NESHAP, at 40 C.F.R. § 63.1515(b), requires the owner or operator of an existing affected source to submit a notification of compliance status report within 60 days after March 24, 2003.

10. The NESHAP, at 40 C.F.R. § 63.1516(a), requires the owner or operator to develop and implement a written Startup, Shutdown, and Malfunction (SSM) Plan.

11. The NESHAP, at 40 C.F.R. § 63.1516(b), requires the owner or operator to submit within 60 days of the end of each 6-month period an Excess Emission/Summary Report.

12. The NESHAP, at 40 C.F.R. § 63.1517(a), requires the owner or operator to maintain files of all information (including all reports and notifications) required by the general provisions at 40 C.F.R. §63.10(b) and Subpart RRR.

#### **Mercury Marine's Facility**

13. Mercury Marine owns and operates a Secondary Aluminum

Production facility at W6250 Pioneer Road in Fond du Lac, Wisconsin.

14. Mercury Marine's Fond du Lac facility is subject to the requirements at 40 C.F.R. Part 63. Mercury Marine is a major source for Hazardous Air Pollutants (HAP).

#### Violations

15. On May 24, 2003, Mercury Marine was required to submit a notification of compliance status. Mercury Marine failed to submit that notification in violation of 40 C.F.R. § 63.1515(b).

16. By March 24, 2003, Mercury Marine was required to perform initial performance tests on its affected emission sources. Mercury Marine has not conducted such tests in violation of 40 C.F.R. § 63.1511(b).

17. By March 24, 2003, Mercury Marine was required to prepare and implement an Operation, Maintenance, and Monitoring (OM&M) Plan. Mercury Marine has not prepared or implemented an OM&M plan in violation of 40 C.F.R. § 63.1510(b).

18. By March 24, 2003, Mercury Marine was required to develop and implement an approved written Startup, Shutdown, and Malfunction (SSM) Plan. Mercury Marine has not developed or implemented an SSM plan in violation of 40 C.F.R. § 63.1516(a).

19. By October 24, 2003, Mercury Marine was required to submit its first Excess Emission/Summary Report. Mercury Marine failed to submit its report in violation of 40 C.F.R. § 63.1516(b).

20. Mercury Marine failed to maintain files of all information (including reports and notifications) required by the general provisions at 40 C.F.R. §63.10(b) and Subpart RRR in violation of 40 C.F.R. § 63.1517(a).

21. Mercury Marine failed to operate all new and existing affected sources and control equipment according to the operating requirements in Subpart RRR in violation of 40 C.F.R. § 63.1506(a)(1).

22. Mercury Marine failed to install, calibrate, operate, and maintain a device to measure and record the total weight of feed/charge to, or the aluminum production from, the affected source or emission unit, or to use an approved procedure to determine the total weight of feed/charge to, or aluminum

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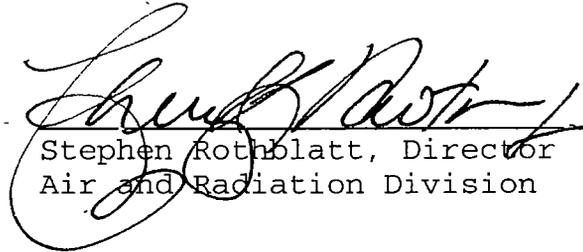
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production from, the affected source or emission unit in violation of 40 C.F.R. § 63.1510(e).

9/29/04  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker certify that I sent a Finding of Violation,  
No. EPA-5-04-WI-12, by Certified Mail, Return Receipt Requested,  
to:

Tom Baumgartner, Director Environmental  
Mercury Marine  
W6250 Pioneer Road  
Fond du Lac, Wisconsin 54936

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

Imelda Stamm, Supervisor  
Northeast Region  
625 E. County Road Y - Suite 700  
Oshkosh, WI 54901-9731

on the 29<sup>th</sup> day of September, 2004.

Shanee Rucker  
Shanee Rucker, Secretary  
AECAS, (MI/WI)  
(312)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1558 5977