

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)	
)	
Philip Services Corporation)	FINDING OF VIOLATION
Detroit, Michigan)	
)	EPA-5-01-MI-24
)	
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 <u>et seq.</u>)	
_____)	

Finding of Violation

The United States Environmental Protection Agency (U.S. EPA) hereby notifies the State of Michigan and Philip Services Corporation (PSC), that U.S. EPA finds that PSC's facilities located at 421 Lycaste Avenue, Detroit, Michigan, are in violation of the Clean Air Act (Act), 42 U.S.C. §§ 7401 et seq. PSC is in violation of section 112 of the Act, 42 U.S.C. § 7412, and regulations setting forth National Emission Standards for Hazardous Air Pollutants (NESHAP) from Off-Site Waste and Recovery Operations, at 40 C.F.R. Part 63, Subpart DD. Specifically, U.S. EPA finds that PSC is in violation of the above-cited laws and regulations as follows:

Regulatory Authority

1. On July 1, 1996, in accordance with section 112(d) of the Act, U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants from Off-Site Waste and Recovery Operations at 40 C.F.R. Part 63, Subpart DD, §§ 63.680-63.698 (Subpart DD). The Subpart DD regulations were amended on July 20, 1999, and became effective on September 20, 1999.

2. Subpart DD applies to the owner and operator of a plant site that is a major source of hazardous air pollutant (HAP) emissions if that plant site receives off-site materials, as described by § 63.680(b), and is engaged in waste management or recovery operations as described by § 63.680(a)(2).

3. A "plant site" is, as defined by 40 C.F.R. § 63.681, all contiguous or adjoining property that is under common control including properties that are separated only by a road or other public right-of-way. Common control includes properties that are

owned, leased, or operated by the same entity, parent entity, subsidiary, or any combination thereof.

4. A "major source" of HAP emissions is, as defined by 40 C.F.R. § 63.2 (referenced by § 63.680(a)(1)), 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 considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

5. Pursuant to § 63.680(e), the owner or operator of an affected source (as described at 40 C.F.R. § 63.680(c)) that commenced construction or reconstruction before October 13, 1994, and that received off-site material for the first time before February 1, 2000, must achieve compliance with the provisions of Subpart DD on or before February 1, 2000.

6. There are three types of "affected sources" identified by 40 C.F.R. § 63.680(c): off-site material management units, process equipment associated with process vents, and equipment components.

7. Subpart DD includes 40 C.F.R. § 63.697(a)(1), which states that the owner or operator of an affected source must submit notices to the Administrator in accordance with the applicable notification requirements in 40 C.F.R. § 63.9, as specified in Table 2 of Subpart DD.

8. 40 C.F.R. § 63.9(b)(2), which is specified in Table 2 of Subpart DD, requires that the owner or operator of an affected source that has an initial start-up before the effective date of a relevant standard notify the Administrator in writing that the source is subject to such standard, and provide in that initial notification the information required by subsections (i), (ii), (iii), (iv), and (v) of § 63.9(b)(2). 40 C.F.R. § 63.697(a)(1) further states that an owner or operator subject to Subpart DD must submit to the Administrator the initial notification required by 40 C.F.R. § 63.9(b)(2) no later than October 19, 1999.

9. 40 C.F.R. § 63.9(h), which is specified in Table 2 of Subpart DD, requires that, when an affected source becomes subject to a relevant standard, before a Title V permit has been issued to the owner or operator of the affected source the owner or operator shall submit to the Administrator a notification of compliance status, signed by the responsible official who shall certify its accuracy. The notification of compliance status shall provide the information required by subsections (A), (B),

(C), (D), (E), (F), and (G) of § 63.9(h)(2)(i), and is to include the performance test results required by 40 C.F.R. § 63.10(d)(2) (which the owner or operator also is required to submit pursuant to 40 C.F.R. § 63.697(b)(2)). This notification of compliance status shall be sent by the owner or operator to the Administrator before the close of business on the 60th day following completion of the relevant compliance demonstration activity specified in the relevant standard.

10. 40 C.F.R. § 63.697(b)(4) requires that the owner or operator of a control device used to meet the requirements of 40 C.F.R. § 63.693 submit a summary report, as specified in § 63.10(e)(3), on a semiannual basis. The semiannual summary report shall include a description of all excursions as defined in § 63.695(e) that have occurred during the 6-month reporting period. Pursuant to 40 C.F.R. §§ 63.10(e)(3)(v) and 63.697(b)(4), the semiannual summary report is to be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate.

11. 40 C.F.R. § 63.7(a)(2)(iii), which is specified in Table 2 of Subpart DD, requires that the owner or operator of an affected source conduct performance testing within 180 days after the compliance date specified in an applicable subpart for an existing source subject to an emission standard established pursuant to section 112(d) of the Act.

Factual Background

12. PSC owns and operates facilities known as Petro-Chem Processing Group of Nortru, Inc., and as Solvent Distillers Group, both located at 421 Lycaste Avenue, Detroit, Michigan.

13. The two PSC facilities identified in Paragraph 9, above, are part of a single "plant site", as that term is defined by 40 C.F.R. § 63.681 (hereafter referenced as the "PSC plant site").

14. The PSC plant site emits 25 tons per year or more of a combination of hazardous air pollutants.

15. The PSC plant site is a major source of hazardous air pollutant emissions, as the term "major source" is defined by 40 C.F.R. § 63.2.

16. The PSC plant site receives off-site materials and is engaged in off-site waste material management or recovery

operations, as described by § 63.680(a)(2). The PSC plant site has engaged in these activities since before July 1, 1996.

17. Affected sources, as identified by 40 C.F.R. § 63.680(c), are located at the PSC plant site. More specifically, affected sources are located at each of the facilities known as Petro-Chem Processing Group of Nortru, and as Solvent Distillers Group.

18. PSC and the PSC plant site are subject to the NESHAP from Off-Site Waste and Recovery Operations, promulgated at 40 C.F.R. Part 63, Subpart DD.

19. PSC is subject to the notification and reporting requirements of 40 C.F.R. §§ 63.9 and 63.10 as referenced by 40 C.F.R. §§ 63.697(a) and (b), and Table 2 of Subpart DD. Among these requirements, PSC is subject to the requirement, set forth in 40 C.F.R. § 63.9(b)(2), to submit an initial notification identifying each affected source which is subject to the relevant standard - here, the Subpart DD standards. Pursuant to 40 C.F.R. § 63.697(a)(1), PSC was required to submit this initial notification no later than October 20, 1999.

20. PSC is subject to the testing requirements of 40 C.F.R. § 63.7, as referenced by Table 2 of Subpart DD. Among these requirements, PSC is subject to the requirement set forth in 40 C.F.R. § 63.7(a)(2), to conduct performance testing within 180 days after the compliance date specified in Subpart DD, or no later than July 30, 2000.

21. Also among the notification requirements referenced in the preceding paragraph, PSC is subject to the requirement to submit a notification of compliance status as set forth in 40 C.F.R. § 63.9(h)(2)(ii). PSC was required to send this notification to the Administrator before the close of business on the 60th day following completion of the relevant compliance demonstration activity specified in the relevant standard.

22. PSC completed the relevant compliance demonstration activity when it completed its Container Processing System and Master Vapor Recovery System Stack Test No. 3, on November 3, 2000 (although as set forth in § 63.7(a)(2), PSC was required to complete its compliance demonstration within 180 days after the compliance date of February 1, 2000). Consequently, PSC was required to send to the Administrator a compliance status notification no later than January 2, 2001.

23. Additionally, PSC is subject to the requirement to submit semiannual summary reports as set forth in 40 C.F.R.

§ 63.697(b)(4), which references 40 C.F.R. §63.10(e)(3). As specified by those regulations, PSC's first semiannual summary report should have been delivered to the Administrator by March 20, 2000.

Violations

24. PSC is in violation of the regulations set forth at 40 C.F.R. §§ 63.9(b) and 63.697(a)(1) because PSC failed, on or before October 20, 1999, to submit to the Administrator an initial notification identifying the affected sources at the PSC plant site which were subject to the Subpart DD regulations.

25. PSC is in violation of the regulations set forth at 40 C.F.R. §§ 63.9(h) and 63.697(a)(1) because PSC failed, by January 2, 2001, to submit to the Administrator a notification of compliance status for the affected sources at the PSC plant site.

26. PSC also is in violation of the regulations set forth at 40 C.F.R. §§ 63.9(h) and 63.697(a)(1) because, although PSC submitted a notification of compliance status to the Administrator on August 9, 2001, the notification was not complete. Among the reasons that notification was not complete is that it did not identify the compliance status of all of the affected sources at the PSC plant site which are subject to the Subpart DD standards.

27. PSC is in violation of the regulations set forth at 40 C.F.R. §§ 63.10(e)(3) and 63.697(b)(4) because PSC failed to submit the semiannual summary reports required by those regulations. PSC failed to submit a semiannual summary report on March 20, 2000, September 20, 2000, and March 20, 2001.

28. PSC is in violation of the regulation set forth at 40 C.F.R. § 63.7(a)(2)(iii) because PSC failed to conduct the required performance testing within 180 days after the compliance date specified in Subpart DD.

9-26-01

Date



Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Finding of Violation and a SBREFA Fact Sheet by Certified Mail, Return Receipt Requested, to:

Allen Kinsler, Manager, Regulatory Affairs
Philip Services Corporation
515 Lycaste Avenue
Detroit, Michigan 48214

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

Wendy Barrott, Director
Wayne County Air Quality Management
Department of the Environment
- 640 Temple Street
Suite 700
Detroit, Michigan 48201

Gerald Avery, Field Operations Supervisor
Michigan Department of Environmental Quality
Air Quality Division
106 West Allegan Street
P.O. Box 30260
Lansing, Michigan 48909-7760

Timothy McGarry, Chief
Enforcement Unit
Air Quality Division
Michigan Department of Environmental Quality
P.O. Box 30260
Lansing, Michigan 48909

on the 26 day of September, 2001.


Shanee Rucker, Secretary
AECAS, MI/WI Section

CERTIFIED MAIL RECEIPT NUMBER: 7099340000095810850