

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF: )  
 )  
Tomen Agro, Inc. )  
3647 Shepard Road )  
Perry, Ohio 44081 )  
 )  
 )  
 )

Docket No. CAA-5-99-022  
Proceeding to Assess  
Administrative penalties  
under Section 113(d) of  
the Clean Air Act,  
42 U.S.C. Section 7413(d)

ADMINISTRATIVE COMPLAINT

This is an action for the assessment of a civil administrative penalty brought against Respondent, Tomen Agro, Inc ("Tomen Agro") pursuant to Sections 113(d) of the Clean Air Act ("Act"), 42 U.S.C. §§ 7413(d), and the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits" ("Consolidated Rules"), 40 C.F.R. Part 22, for violations of Section 112 of the Act, 42 U.S.C. § 7412, and the regulations promulgated thereunder setting forth the National Emission Standards for Hazardous Air Pollutants ("NESHAP") for Source Categories, 40 C.F.R. Part 63, Subparts A, F and G.

THE PARTIES

1. The Complainant is, by lawful delegation, the Director of the Air and Radiation Division, United States Environmental Protection Agency ("U.S. EPA"), Region 5, Chicago, Illinois.
2. The Respondent is Tomen Agro, who owns and operates a perchloromethyl mercaptan ("PMM") chemical manufacturing process unit ("CMPU") at its facility located at 3647 Shepard Road, Perry, Ohio.

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**STATUTORY AND REGULATORY BACKGROUND**

3. Section 112 of the Act, as amended November 15, 1990, 42 U.S.C. 7412 requires the Administrator to promulgate regulations establishing emission standards for each category or subcategory of major sources and area sources of hazardous air pollutants listed for regulation pursuant to subsection (c)(1) of Section 112 of the Act.
4. On March 16, 1994, pursuant to Section 112 of the Act, U.S. EPA published as a final rule, the National Emission Standards for Hazardous Air Pollutants For Source Categories, General Provisions at 40 C.F.R. Part 63, Subpart A. 59 Fed. Reg. 12430.
5. On April 22, 1994, pursuant to Section 112 of the Act, U.S. EPA published as a final rule, the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry ("Hazardous Organic NESHAP" or "HON") at 59 Fed. Reg. 19568, codified at 40 C.F.R. Part 63, Subpart F.
6. On April 22, 1994, pursuant to Section 112 of the Act, U.S. EPA published as a final rule, the National Emission Standards for Organic Hazardous Air Pollutants from the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, at 59 Fed. Reg. 19468, codified at 40 C.F.R. Part 63, Subpart G.
7. On May 31, 1972, pursuant to Section 110 of the Act, U.S. EPA published as a final rule, the Approval and Promulgation of Implementation Plans, General Provisions at 37 Fed. Reg. 10846, codified at 40 C.F.R. Part 52, Subpart A.

8. The provisions of 40 C.F.R. Part 63, Subparts F and G apply to chemical manufacturing process units (CMPUs) that:

(a) manufacture as a primary product, one or more of the organic hazardous chemicals listed in table 1 of 40 C.F.R. Part 63, Subpart F,

(b) use as a reactant or manufacture as a product, or co-product, one or more of the organic hazardous air pollutants listed in table 2 of 40 C.F.R. Part 63, Subpart F, and

(c) are located at a plant site that is a major source as defined in Section 112(a) of the Act. 40 C.F.R. § 63.100(a).

9. A "chemical manufacturing process unit" means the equipment assembled and connected by pipes or ducts to process raw materials and to manufacture an intended product. 40 C.F.R. § 63.101.

10. A "hazardous air pollutant" means any air pollutant listed pursuant to section 112(b) of the Act. 42 U.S.C. § 7412(a)(6).

11. A "major source" means any stationary source or group of stationary sources located within a contiguous area 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. 42 U.S.C. § 7412(a)(1).

12. A "stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant. 42 U.S.C. § 7411(a)(3).

13. Perchloromethyl mercaptan (PMM) is listed as an organic hazardous chemical in table 1 of 40 C.F.R. Part 63, Subpart F.

14. Carbon disulfide is listed as an organic hazardous air pollutant in table 2 of 40 C.F.R. Part 63, Subpart F.
15. Carbon disulfide and carbon tetrachloride are listed as hazardous air pollutants at 42. U.S.C. § 7412(b).
16. 40 C.F.R. Part 63, Subparts F and G apply to, inter alia, process vents, storage vessels and transfer racks associated with the collection of all chemical processing manufacturing units at a major source. 40 C.F.R. § 63.100(e).
17. Process vents, storage vessels, and transfer racks at an existing source shall be in compliance with 40 C.F.R. Part 63, Subparts F and G by April 22, 1997 unless an extension was granted. 40 C.F.R. 100(k)(2).
18. "Process vent" means a gas stream containing greater than 0.005 weight-percent total organic hazardous air pollutants that is continually discharged during the operation of the unit from an air oxidation reactor, other reactor, or distillation unit within a chemical manufacturing process unit that meets all applicability criteria in 40 C.F.R. § 63.100(b)(1) through (b)(3). 40 C.F.R. § 63.101.
19. The provisions of 40 C.F.R. Part 63, Subpart A apply to owners or operators who are subject to 40 C.F.R. Part 63, Subpart F and/or G.
20. "Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source. 40 C.F.R. § 63.2.
21. "Person" means 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. 42 U.S.C. § 7602.

22. Section 110 of the Act, 42 U.S.C. § 7410, requires each State to adopt and submit a plan which provides for the implementation, maintenance and enforcement of any national primary or secondary standard established pursuant to Section 109 of the Act, 42 U.S.C. § 7409. These plans are required to include enforceable emission limitations, control measures, schedules for compliance and permit programs for new sources and are subject to the Administrator's approval or disapproval in part or in whole.

23. 40 C.F.R. Part 52 sets forth the Administrator's approval and disapproval of State plans or portions thereof.

24. Pursuant to Section 110 of the Act, the Administrator approved Ohio Administrative Code ("OAC") Chapter 3745-31 as part of the federally enforceable Ohio State Implementation Plan ("Ohio SIP") on October 31, 1980 (45 Fed. Reg. 72119). OAC Chapter 3745-31 governs the granting of permits to construct new and modified sources of Air Pollution and authorizes the OEPA Director to impose permit conditions within each permit.

25. 40 C.F.R. § 52.23 provides that failure to comply with any provision of 40 C.F.R. Part 52, or with any approved regulatory provision of a State implementation plan, or with any permit condition or permit denial issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, shall render a person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act.

**GENERAL ALLEGATIONS**

26 The Statutory and Regulatory Background statements contained in paragraphs 1 through 25 are incorporated herein by reference.

27. On May 26, 1999, the Attorney General of the United States has concurred with the determination of the Administrator of U.S. EPA, each through their respective delegates, that an administrative assessment of civil penalties is appropriate for the period of violations alleged in this Complaint.

28. On March 2, 1999, U.S. EPA issued a Finding of Violation ("FOV") and Notice of Violation ("NOV") to Tomen Agro.

29. Tomen Agro owns and operates a PMM CMPU located at 3647 Shepard Road in Perry, Ohio.

30. Tomen Agro's PMM CMPU manufactures PMM as a primary product.

31. Tomen Agro uses carbon disulfide as a reactant in the production of PMM.

32. Tomen Agro is a major source as that term is defined in Section 112 of the Act.

33. As a result, Tomen Agro is subject to the regulations set forth at 40 C.F.R. Part 63, Subparts A, F, and G.

34. The PMM CMPU distillation column at Tomen Agro has a Group 1 process vent as that term is defined at 40 C.F.R. §63.111.

35. Group 1 process vents are subject to reference control technology, monitoring, reporting and record-keeping requirements given at 40 C.F.R. Part 63, Subpart G.

36. On November 2, 1995, Tomen Agro (formerly Zeneca) requested a one year extension of compliance with the HON pursuant to 40 C.F.R. 63.151(a)(6).

37. On November 30, 1995, Tomen Agro (formerly Zeneca) submitted additional information for the extension request.
38. On March 1, 1996, U.S. EPA granted approval of the extension request, in accordance with 40 C.F.R. 63.6(i), and established a compliance schedule.
39. The extension of compliance and compliance schedule required Tomen Agro's subject CMPU to be in compliance with the HON by April 22, 1998.
40. As a result, Tomen Agro was required to come into compliance with 40 C.F.R. Part 63, Subparts A, F, and G by April 22, 1998.
41. On May 6, 1998, pursuant to OAC 3745-31-02 and 05 of the Ohio SIP, the Ohio Environmental Protection Agency ("OEPA") issued a Permit to Install ("PTI") to Tomen Agro for a modification to the PMM distillation column located at its Perry, Ohio facility.
42. The modification incorporated the addition of a thermal oxidizer and a scrubber to comply with the HON.
43. As a result, Tomen Agro was required to comply with permit conditions established in the PTI or be in violation of a requirement of an applicable implementation plan and subject to an enforcement action in accordance with 40 C.F.R. § 52.23.
44. Tomen Agro is a "person" as defined at 42 U.S.C. § 7602.

#### Count I

45. Paragraphs 1 through 44 of this Administrative Complaint are hereby incorporated by reference as if fully set forth in this paragraph.
46. 40 C.F.R. § 63.6(e)(3)(i) requires owners and operators of an affected source to develop and implement a written startup, shutdown, and malfunction

plan ("SSMP") that describes in detail, procedures for operating and maintaining the source during periods of startup, shutdown and malfunction and a program of corrective action for a malfunctioning process.

47. 40 C.F.R. § 63.6(e)(3)(ii) requires that during periods of startup, shutdown, and malfunction, the owner or operator of an affected source operate and maintain such source in accordance with the procedures specified in the SSMP developed under 40 C.F.R. § 63.6(e)(3)(i).

48. Tomen Agro developed a SSMP, dated October 16, 1998, in accordance with 40 C.F.R. § 63.6(e)(3), at its Perry, Ohio facility.

49. Section 4 of the SSMP sets forth Malfunction Procedures.

50. Section 4 of the SSMP describes four general types of events that are considered to be malfunctions. In particular, Section 4(2) defines a malfunction as one that causes operating parameters to exceed or deviate from limits as established in Tomen Agro's permit or most recent stack test.

51. Section 4(4) of the SSMP requires Tomen Agro to correct a malfunction in a reasonable time (not to exceed 30 minutes) or shut down.

52. On October 19, 1998, the circulation flow to the existing (B-column) scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the column.

53. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the column in accordance with the procedures specified in the SSMP.

54. On November 22, 1998, the existing scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the existing scrubber.
55. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the existing scrubber in accordance with the procedures specified in the SSMP.
56. On December 10, 1998, the new (final) wet scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the new scrubber.
57. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the new scrubber in accordance with the procedures specified in the SSMP.
58. On January 14, 1999, the new (final) wet scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the new scrubber.
59. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the new scrubber in accordance with the procedures specified in the SSMP.
60. On January 15, 1999, the new (final) wet scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the new scrubber.
61. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the new scrubber in accordance with the procedures specified in the SSMP.

62. On January 16, 1999, the new (final) wet scrubber malfunctioned, requiring Tomen Agro to either correct the malfunction within 30 minutes or shut down the new scrubber.

63. Tomen Agro failed to correct the malfunction within 30 minutes and failed to shutdown the new scrubber in accordance with the procedures specified in the SSMP.

64. Tomen Agro's failure to operate and maintain the sources in accordance with the procedures specified in its SSMP constitutes a violation of 40 C.F.R. § 63.6(e) (3) (ii).

65. Tomen Agro's violation of 40 C.F.R. § 63.6(e) (3) (ii) subjects Tomen Agro to the issuance of an Administrative Order assessing a civil administrative penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**Count II**

66. Paragraphs 1 through 65 of this Administrative Complaint are hereby incorporated by reference as if fully set forth in this paragraph.

67. 40 C.F.R. § 63.152(b) requires each owner or operator of a source subject to 40 C.F.R. Part 63, Subpart G, to submit a Notification of Compliance Status within 150 calendar days after the compliance dates specified in 40 C.F.R. § 63.100.

68. 40 C.F.R. § 63.152(b) (1) requires, among other things, that the notification include results of performance tests and any other information used to demonstrate compliance.

69. Pursuant to 40 C.F.R. §63.100, due to the one year extension that was granted to Tomen Agro, Tomen Agro was required to submit a Notification of Compliance Status by September 19, 1998.

70. Tomen Agro's PTI, issued pursuant to OAC Rule 3745-31-02 and 05, requires the permittee to conduct or have conducted a performance test for the thermal oxidizer/scrubber for hydrogen halides and halogens, and total organic compounds or HAPs (such as carbon disulfide and carbon tetrachloride), within six-months after initial start-up of the new scrubber and the thermal oxidizer. The testing is required to demonstrate compliance with allowable control efficiencies and mass emission rates established in the PTI.

71. In accordance with the Reporting Requirements of the permit, at paragraph D(1)(a), the permittee shall submit an initial compliance notification on or before October 19, 1998, which includes the results of the required performance tests.

72. In accordance with 40 C.F.R. § 63.113(a)(2) and Paragraph E(2)(a) of Tomen Agro's PTI, "Testing Requirements for the Thermal Oxidizer," the emission limitation for the thermal oxidizer shall be a 98 percent by weight reduction of total organic compounds or 20 ppm by volume on a dry basis corrected to 3 percent Oxygen, whichever is less stringent.

73. Paragraph E(3) of the PTI requires that the emission testing shall be completed prior to October 19, 1998.

74. In accordance with 40 C.F.R. § 63.116(c)(4) and Paragraph E(3) of the PTI, the test method which must be employed to demonstrate compliance with the thermal oxidizer is Method 18 of 40 C.F.R. Part 60, appendix A, or

alternatively, any other method or data that has been validated according to the applicable procedures in Method 301 of 40 C.F.R. Part 63, appendix A and approved (by a delegated authority).

75. 40 C.F.R. Part 60, appendix A, Method 18, section 7.6.3 requires that a recovery study be done when adsorption tube procedures are used for Method 18 testing. 7.6.3.1 requires the average fraction recovered (R) of each target compound (pollutant) to be between 0.70 and 1.30. If the average R value does not meet this criterion for the target compound, the sampling technique is not acceptable for that compound.

76. On September 17, 1998, FBT Testing and Environmental Services (FBT) conducted a stack test at the thermal oxidizer, on behalf of Tomen Agro, to demonstrate Tomen Agro's compliance with the HON.

77. FBT used carbon sorption tubes, as allowed by Method 18 at 40 C.F.R. 60, Appendix A, for the performance test at the thermal oxidizer.

78. Tomen Agro submitted its Notification of Compliance Status on October 22, 1998, including the results of its performance tests for the thermal oxidizer.

79. The performance test results involving carbon disulfide and carbon tetrachloride conducted at the thermal oxidizer were rejected by OEPA because the quality assurance/quality control identified unacceptable spike recovery for these target pollutants (carbon disulfide and carbon tetrachloride).

80. The absence of performance test data which can be verified through quality assurance/quality control measures resulted in Tomen Agro's failure to have a valid performance test.

81. As a result, Tomen Agro failed to demonstrate compliance with the HON prior to September 19, 1998.

82. As a result of the Tomen Agro's invalid performance test at the thermal oxidizer, Tomen Agro was unable to submit a Notification of Compliance Status that demonstrated compliance, as required by 40 C.F.R. § 63.152(b) and its permit.

83. Tomen Agro's failure to submit a Notification of Compliance Status that demonstrated compliance with the regulations and permit constitutes a violation of 40 C.F.R. § 63.152(b), the Ohio SIP.

84. Tomen Agro's violation of 40 C.F.R. 63.152(b) and the Ohio SIP, subjects Tomen Agro to the issuance of an Administrative Order assessing a civil administrative penalty pursuant to Section 113(d) of the Act, 42 U.S.C. § 7413(d).

**NOTICE OF PROPOSED ORDER ASSESSING A CIVIL PENALTY**

85. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, and the Civil Monetary Penalty Inflation Adjustment Rule at 40 C.F.R. Part 19, the Administrator of the U.S. EPA may assess a civil penalty of up to \$27,500 per day for each violation, up to a total of \$220,000, for violations of requirements under the Act. The proposed civil penalty herein has been determined under those authorities in accordance with Section 113(e)(1) of the Act, 42 U.S.C. § 7413(e)(1), which requires the Complainant to take the following factors into consideration in determining the amount of penalty assessed under Section 113: the size of the Respondent's business; the

economic impact of the penalty on the business; Respondent's full compliance history and good faith efforts to comply; the duration of the violations alleged in the Complaint as established by credible evidence (including evidence other than the applicable test method); payment by Respondent of penalties previously assessed for the same alleged violations; the economic benefits of noncompliance; and the seriousness of the alleged violations.

86. After consideration of the factors set forth at Section 113(e)(1) of the Act, based upon the facts and circumstances alleged in this Complaint, U.S. EPA hereby proposes to issue to Respondent a Final Order Assessing Administrative Penalties assessing a penalty in the amount of fifty three thousand and nine hundred dollars (\$53,900.00). This proposed penalty was calculated under Section 113(e) of the Act, with specific reference to the Clean Air Act Stationary Source Penalty Policy ("Penalty Policy"). The Penalty Policy provides a rational, consistent and equitable calculation methodology for applying the statutory penalty factors set forth above to particular cases. A copy of the Penalty Policy is attached hereto as Exhibit A.

87. Respondent shall pay the assessed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and shall deliver it, with a transmittal letter identifying the name of the case and docket number of this Complaint to:

U.S. Environmental Protection Agency, Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

Respondent shall also include on the check the name of the case and the docket number. Respondent simultaneously shall send copies of the check and transmittal letter to:

Kevin Vuilleumier (AE-17J)  
Air and Radiation Division  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

and,

Nidhi K. O'Meara (C-14J)  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

88. The penalty proposed in this Complaint has been developed based on the best information available to U.S. EPA at this time, and may be adjusted if the Respondent establishes bonafide issues of ability to pay or other defenses relevant to the appropriateness of the penalty.

**OPPORTUNITY TO REQUEST A HEARING**

89. Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), requires the Administrator of U.S. EPA to provide to any person against whom the Administrator proposes to assess a penalty an opportunity to request a hearing on the proposed penalty. Accordingly, you have the right to request a hearing to contest any material fact alleged in the Complaint or to contest the appropriateness of the amount of the proposed penalty. In order to request a hearing, you must specifically make such request in your Answer, as discussed in Paragraphs 94 through 98 below.

90. The hearing which you request will be held and conducted in accordance with the provisions of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, as amended by 57 Fed. Reg. 4316 (1992), a copy of which is attached hereto as Exhibit B.

**ANSWER**

91. To avoid being found in default, you must file a written Answer to this Complaint with the Regional Hearing Clerk, (R-19J), U.S. EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, within twenty (20) calendar days of your receipt of this Complaint. In computing any period of time allowed under this Complaint, the day of the event from which the designated period begins to run (the date the Complaint is received) shall not be included. Saturdays, Sundays and Federal holidays shall be included, except when a time period expires on such day, in which case the deadline shall be extended to the next business day.

92. Your Answer must clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint, or must state clearly that you have no knowledge regarding a particular factual allegation which you cannot admit, deny or explain, in which case the allegation will be deemed denied.

Your Answer shall also specifically state:

- a. The circumstances or arguments which you allege constitute grounds for a defense;
- b. The facts that you intend to place at issue; and

c. Whether you request a hearing discussed in Paragraphs 31 and 32, above.

93. Failure to respond to any factual allegation in this Complaint shall constitute an admission of the alleged fact.

94. You must send a copy of your Answer and any documents subsequently filed in this action to Nidhi K. O'Meara, Assistant Regional Counsel (C-14J), U.S. EPA, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590. You may telephone Ms. O'Meara at (312) 886-0568.

95. If you fail to file a written Answer within twenty (20) calendar days of your receipt of this Complaint, the Administrator of U.S. EPA may issue a Default Order. Issuance of a Default Order will constitute a binding admission of all allegations made in the Complaint and a waiver of your right to a hearing. 40 C.F.R. § 22.17. The civil penalty proposed herein shall become due and payable without further proceedings sixty (60) days after the Default Order becomes the Final Order of the Administrator pursuant to 40 C.F.R. §§ 22.27 or 22.31.

**SETTLEMENT CONFERENCE**

96. Whether or not you request a hearing, you may request an informal conference to discuss the facts of this action and to arrive at a settlement. To request a settlement conference, write to Kevin Vuilleumier, U.S. EPA, Region 5, Air and Radiation Division, Air Enforcement and Compliance Assurance Branch (AE-17J), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590, or telephone Mr. Vuilleumier at (312) 886-6188.

97. Your request for an informal settlement conference does not extend the twenty (20) calendar day period during which you must submit a written Answer to this Complaint. You may simultaneously pursue the informal settlement conference and adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. However, U.S. EPA will not reduce the penalty simply because such a conference is held. Any settlement that may be reached as a result of such a conference shall be embodied in a Consent Order. Your agreement to a Consent Order Assessing Administrative Penalties shall constitute a waiver of your right to request a hearing on any matter stipulated to therein.

98. Neither assessment nor payment of an administrative civil penalty shall affect your continuing obligation to comply with the Clean Air Act or any other Federal, State or local law or regulation.

8/4/99  
Date

  
Margaret M. Guerriero, Acting Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590

In the Matter of: Tomen Agro, Inc.  
Docket No. : **CAA-5-99-022**

CERTIFICATE OF SERVICE

I, Loretta Shaffer, certify that I hand delivered the original of the foregoing Administrative Complaint to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies, along with a copy of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits," 40 C.F.R. Part 22, and a copy of the Penalty Policy (described in the Complaint) by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing it in the custody of the United States Postal Service addressed as follows:

A.D. Stungys, Plant Manager  
Tomen Agro, Inc.  
3647 Shepard Road  
Perry, Ohio 44081

And

Ms. Janet J. Henry  
Porter, Wright, Morris and Arthur, L.L.P.  
41 South High Street  
Columbus, Ohio 43215-6194

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PROF. RECORDS

I also certify that copies of the Administrative Complaint were sent by First Class Mail to:

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. 1049  
Columbus, OH 43216-1049

Dennis Bush, APC Supervisor  
Northeast District Office  
2110 E. Aurora Road  
Twinsburg, Ohio 44087

on the 5<sup>th</sup> day of August, 1999.

  
\_\_\_\_\_  
Loretta Shaffer, Secretary  
AECAS (MN-OH)

CERTIFIED MAIL RECEIPT NUMBER: P 140 777 329