

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** )  
 )  
Research Oil Company, Inc. ) **FINDING OF VIOLATION**  
Cleveland, Ohio )  
 ) **EPA-5-99-OH-26**  
 )  
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 (U.S. EPA) hereby notifies the State of Ohio and Research Oil Company, Inc. (Research Oil) that U.S. EPA finds Research Oil, located at 2655 Transport Road, Cleveland, Ohio, in violation of the Clean Air Act (Act), 42 U.S.C. §§ 7401 et seq. Research Oil 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) for Benzene Waste Operations, at 40 C.F.R. Part 61, Subpart FF; Section 114 of the Act, 42 U.S.C. §7414, setting forth the authority to request information which the Administrator may reasonably require to carry out any provision of the Act; and Section 502 of the Act, 42 U.S.C. §§7661(a), and regulations under this section setting forth the need to acquire a permit to operate in compliance with all applicable requirements at 40 CFR Part 70; as follows:

**Regulatory Authority**

1. The NESHAP for Benzene Waste Operations applies to owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDF) that treat, store, or dispose of benzene containing hazardous waste generated by any chemical manufacturing plant, coke by-product recovery plant, or petroleum refinery.
2. The NESHAP, at 40 C.F.R. Part 61, Subpart FF, requires the owner or operator of a subject facility to, among other things:

- a. Install, operate and maintain a fixed roof and closed-vent system that routes all organic vapors from tanks, surface impoundments, containers, individual drain systems, oil-water separators, and/or treatment processes (process units) to a control device;
  - b. Maintain each opening on process units in a closed, sealed position;
  - c. Design covers and all openings (e.g., access hatches, sampling ports, and gauge wells) on process units to operate at no detectable emissions; and
  - d. Visually inspect, report and maintain records in accordance with provisions of the regulation.
3. Section 114 of the Act, 42 U.S.C. §7414 provides the Administrator (or delegated authority), among other things, the authority to request on a one-time, periodic or continuous basis, information which the Administrator may reasonably require to carry out any provision of the Act.
  4. Section 502 of the Act, 42 U.S.C. §7661(a), states that it is unlawful for any person to operate an affected source, a major source, or any other source, except in compliance with a permit issued by a permitting authority under Title V after the effective date of any permit program approved or promulgated under Title V of the Act, 42 U.S.C. §§7661 - 7661(f).
  5. On Tuesday, August 15, 1995, U.S. EPA published the final approval of the State of Ohio's operating permits program in the Federal Register (60 FR 42045). The final approval became effective October 1, 1995.

#### **Factual Background**

6. Research Oil owns and operates a stationary source located at 2655 Transport Road, Cleveland, Ohio.
7. Research Oil is subject to the NESHAP for Benzene Waste Operations, at 40 C.F.R. Part 61, Subpart FF, because it is a TSDF and receives benzene containing waste from chemical manufacturing facilities, coke by-product recovery operations and/or petroleum refineries.
8. Research Oil is subject to Section 114 of the Act as a facility subject to the Act.

9. On September 23, 1997, U.S. EPA Region 5 issued a request for information to Research Oil. Research Oil's responses to this request for information were not submitted or conducted in a timely fashion and were not complete.
10. Research Oil is subject to Title V of the Act because it has the potential to emit more than 10 tons per year of any single hazardous air pollutant (HAP) or 25 tons per year of any combination of HAP.
11. On January 25, 1995, U.S. EPA issued a policy memorandum entitled "Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act)." This policy, among other things, provided a 2-year transition period for certain sources that applied for federally-enforceable potential to emit limits but were not able to obtain such limits because the U.S. EPA's approval of various State programs has been delayed.
12. On August 27, 1996, the transition period was extended to July 31, 1998.
13. On July 10, 1998, the transition period was extended to December 31, 1999.
14. In response to U.S. EPA's January 25, 1995 Guidance, and subsequent extensions, Ohio Environmental Protection Agency (OEPA) prepared Engineering Guide #61 guidance on limiting potential to emit. OEPA adopted this guidance on April 27, 1995.
15. On October 9, 1995, Research Oil submitted a letter to the OEPA stating that Research Oil qualified as a 2-year transition period facility as defined by OEPA Engineering Guide #61, with actual air contaminant emissions less than 50 percent of the major source threshold.
16. On May 28, 1996, OEPA sent a letter acknowledging Research Oil's desire to obtain the benefit of being subject to Engineering Guide #61. The letter indicated if Research Oil maintained records showing actual emissions under 50 percent of the major source threshold, as described in Engineering Guide #61, Research Oil was required to obtain a FESOP by January 25, 1997.

17. Research Oil has not maintained adequate records demonstrating it is in compliance with Engineering Guide #61; and therefore, was required to apply for either a Title V permit or FESOP by October 1, 1996.

**Violations**

18. In violation of 40 CFR §61.343, Research Oil failed to:
- a. Install, operate, and maintain a fixed-roof and closed-vent system that routes all organic vapors from the tank(s) to a control device,
  - b. Design covers and all openings to operate at no detectable emissions,
  - c. Maintain each opening in a closed, sealed position at all times when waste is in the tank(s), and
  - d. Conduct visual inspections at the tank(s).
19. In violation of 40 CFR §61.347, Research Oil failed to:
- a. Install, operate, and maintain a fixed-roof and closed-vent system that routes all organic vapors from the oil-water separator(s) to a control device,
  - b. Design covers and all openings to operate at no detectable emissions,
  - c. Maintain each opening in a closed, sealed position at all times when waste is in the oil-water separator(s), and
  - d. Conduct visual inspections at the oil-water separator(s).
20. In violation of 40 CFR §61.349, Research Oil failed to:
- a. Design, install, operate, and maintain a closed vent system to operate with no detectable emissions, and
  - b. Conduct visual inspections of the closed-vent system.
21. In violation of 40 CFR 61.356, Research Oil failed to maintain records of:
- a. Each visual inspection conducted at the tank(s), oil-water separator(s), wastewater treatment unit(s) or fixed roof and closed-vent system.
  - b. Each test of no detectable emissions for the tank(s), oil-water separator(s), wastewater treatment unit(s) or fixed roof and closed-vent system.
22. In violation of 40 CFR §61.357, Research Oil failed to submit annual reports or annual statements as required by 40 CFR §61.357(a) through (c).

- 23. In violation of Section 114 of the Act, Research Oil failed to respond in a timely and complete manner to a 114 Request for Information issued September 23, 1997, as amended.
- 24. In violation of Section 502 of the Act and 40 CFR Part 70, Research Oil:
  - a. Failed to apply for or obtain an operating permit (either a Title V Permit or a Federally Enforceable State Operating Permit) by October 1, 1996 [40 CFR 70.5(a)(1)], and
  - b. Is presently operating without an operating permit.

6/18/99  
Date

  
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Margaret M. Guerriero, Acting Director  
Air and Radiation Division