

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Zimmer Patient Care Division) **FINDING OF VIOLATION**
Dover, Ohio)
) **EPA-5-99-OH-34**
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)
_____)

Finding of Violation

The United States Environmental Protection Agency (U.S. EPA) hereby notifies the State of Ohio and Zimmer Patient Care Division (Zimmer) that U.S. EPA finds that Zimmer, located at 200 W. Ohio Avenue Dover, Ohio, is in violation of the Clean Air Act (Act), 42 U.S.C. §§ 7401 et seq. Zimmer is in violation of Section 112 of the Act, 42 U.S.C. § 7412, and regulations setting forth National Emission Standards for Ethylene Oxide Emissions for Sterilization Facilities, (Ethylene Oxide NESHAP), at 40 C.F.R. Part 63, Subpart O, as follows:

Regulatory Authority

1. On December 6, 1994, U.S. EPA promulgated the National Emission Standards for Ethylene Oxide Emissions for Sterilization Facilities, (Ethylene Oxide NESHAP). 59 Fed. Reg. 69285.
2. The Ethylene Oxide NESHAP applies to affected sources that use Ethylene Oxide for sterilization. 40 C.F.R. § 63.360.
3. The Ethylene Oxide NESHAP, at 40 C.F.R. § 63.363(a)(2), requires the owner or operator of an affected source to conduct an initial performance testing for its sterilization chamber vent 180 days after its compliance date.
4. Pursuant to 62 Fed. Reg. 236, 64736 (December 9, 1997), the compliance date for the Ethylene Oxide NESHAP is December 6, 1998.
5. The Ethylene Oxide NESHAP requires the owner or operator of an affected source to conduct its initial performance test for

its sterilization chamber vent by June 4, 1999.

Factual Background

6. Zimmer owns and operates a facility that contains an ethylene oxide sterilization chamber vent located at 200 W. Ohio Avenue, Dover, Ohio.

7. Zimmer's facility is subject to the Ethylene Oxide NESHAP at 40 C.F.R. Part 63, Subpart O.

Violations

8. On June 2, 1999 via fax and on June 8, 1999 via U.S. Mail, U.S. EPA received a request from Zimmer for an extension of the Ethylene Oxide NESHAP testing deadline.

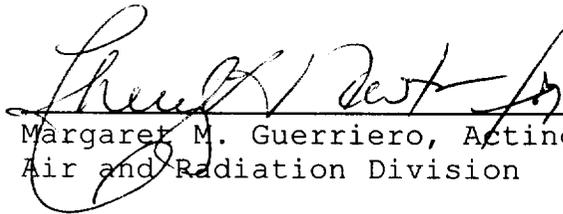
9. U.S. EPA denied Zimmer's extension request in a letter dated June 11, 1999.

10. On June 28, 1999 via fax and on July 1, 1999 via U.S. Mail, Zimmer notified the U.S. EPA that the compliance test has been tentatively scheduled for July 23, 1999. This letter confirmed Zimmer did not conduct its initial performance testing by the regulatory deadline of June 4, 1999.

11. Zimmer's failure to conduct an initial performance test on its sterilization chamber vent by June 4, 1999 is a violation of 40 C.F.R. § 63.363(a)(2).

8/3/99

Date



Margaret M. Guerriero, Acting Director
Air and Radiation Division