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REGISTRATION

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

'89 SEP 29 10:54

IN THE MATTER OF:)	
)	
Textron Automotive Company--)	Docket No. CAA-5-99-045
Rantoul Products,)	
Rantoul, Illinois)	Proceeding to Assess an
)	Administrative Penalty
Respondent.)	under Section 113(d) of the
)	Clean Air Act,
)	42 U.S.C. § 7413(d)
)	

Administrative Complaint

1. This is an administrative action for the assessment of a civil penalty brought pursuant to Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. 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.

3. The Respondent is Textron Automotive Company--Rantoul Products (hereinafter "Textron"), a corporation doing business in the State of Illinois.

Statutory and Regulatory Background

4. On May 31, 1972, Illinois Pollution Control Board (PCB) Rule 103 was approved by the Administrator of the U.S. EPA (37 Fed. Reg. 10862) as part of the federally enforceable State Implementation Plan (SIP) for Illinois.

5. Illinois PCB Rule 103 outlines the Permit Application and review Process for federally enforceable Construction Permits.

6. Illinois PCB Rule 103(a)(1) requires that a Construction Permit be obtained prior to the installation of any new emission source or air pollution control equipment, or modification to an existing emission source or any air pollution control equipment.

7. Illinois PCB Rule 103(a)(6) allows for the imposition of conditions within a Construction Permit.

8. Pursuant to 40 C.F.R. § 52.23, failure to comply with any condition of a Construction Permit issued pursuant to approved regulations, such as Illinois PCB Rule 103, constitutes a violation of the federally enforceable SIP for Illinois and subjects the violator to enforcement action under Section 113 of the Clean Air Act.

9. Pursuant to Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19, the Administrator of U.S. EPA may assess a civil penalty not to exceed \$25,000 per day of violation up to a total of \$200,000 for SIP violations that occurred prior to January 31, 1997, and not to exceed \$27,500 per day of violation up to a total of \$220,000 for SIP violations that occurred on or after January 31, 1997.

10. Section 113(d)(1) limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

11. On June 22, 1999, and July 1, 1999, respectively, the Administrator and the Attorney General of the United States, each through their respective delegates, determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this complaint.

General Allegations

12. Textron owns and operates a facility, Facility #2, located at 707 Veterans parkway, Rantoul, Illinois, which contains Paint Spray Booths (PSBs) 01 and 02.

13. On November 24, 1993, the Illinois Environmental Protection Agency issued a Construction Permit for PSB01 that established a limit of 2.4 lbs/gal Volatile Organic Material (VOM), water excluded.

14. On May 12, 1997, the Illinois Environmental Protection Agency issued a Construction Permit for PSB02 that established a

limit of 1.09 lbs/gal VOM, water included.

Count I

15. Paragraphs 1 through 14 of this Complaint are incorporated by reference as if fully set forth in this paragraph.

16. For 21 months during the period between August 1995 and the present, Textron used paints in PSB01 that contained VOM in levels exceeding the limits established in its November 24, 1993 Construction Permit.

17. For 12 months during the period between June 1997 and the present, Textron used paints in PSB02 that contained VOM in levels exceeding the limits established in its May 12, 1997 Construction Permit.

18. Textron violated the limits set forth in the Construction Permits for the individual paint spray booths when they utilized paints which contained more VOM than that allowed in their respective Construction Permits.

19. Pursuant to 40 C.F.R. § 52.23, Textron's violation of the limits in their Construction Permits constitutes violations of the federally enforceable SIP for Illinois.

20. On December 30, 1998, U.S. EPA issued a notice of violation to Textron for violations of the Illinois SIP from June 1997 to March 1998.

21. On February 11, 1999, U.S. EPA and Textron held a conference to discuss the December 30, 1998 notice of violation.

22. On May 6, 1999, U.S. EPA issued an amended notice of violation to Textron. The amended notice of violation was issued to account for additional violations discovered from information requested by U.S. EPA at the February 11, 1999 conference. The dates of violation of the Illinois SIP alleged in the amended notice of violation were from August 1995 to January 1999.

23. On June 15, 1999, U.S. EPA and Textron held a conference call to discuss the May 6, 1999 amended notice of violation.

Proposed Civil Penalty

24. The Administrator must consider the factors specified in Section 113(e) of the Act when assessing an administrative penalty under Section 113(d). 42 U.S.C. § 7413(e).

25. Based upon an evaluation of the facts alleged in this complaint and the factors in Section 113(e) of the Act, Complainant proposes that the Administrator assess a civil penalty against Respondent of \$187,775. Complainant evaluated

the facts and circumstances of this case with specific reference to U.S. EPA's Clean Air Act Stationary Source Penalty Policy dated October 25, 1991 (penalty policy). Enclosed with this complaint is a copy of the penalty policy.

26. Complainant developed the proposed penalty based on the best information available to Complainant at this time. Complainant may adjust the proposed penalty if the Respondent establishes bona fide issues of ability to pay or other defenses relevant to the penalty's appropriateness.

Rules Governing This Proceeding

27. The "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits" (the Consolidated Rules) at 64 Fed. Reg. 40138 (1999) (to be codified at 40 C.F.R. Part 22) govern this proceeding to assess a civil penalty. Enclosed with the complaint served on Respondent is a copy of the Consolidated Rules.

Filing and Service of Documents

28. Respondent must file with the Regional Hearing Clerk the original and one copy of each document Respondent intends as part of the record in this proceeding. The Regional Hearing Clerk's address is:

Regional Hearing Clerk (R-19J)
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

29. Respondent must serve a copy of each document filed in this proceeding on each party pursuant to Section 22.5 of the Consolidated Rules. Complainant has authorized Robert H. Smith to receive service for Complainant of all documents in this proceeding. You may telephone Robert H. Smith at (312) 886-0765. Robert H. Smith's address is:

Robert H. Smith (C-14J)
Assistant Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

30. Respondent may resolve this proceeding at any time by paying the proposed penalty by certified or cashier's check payable to "Treasurer, the United States of America", and by delivering the check to:

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

Respondent must include the case name and docket number on the check and in the letter transmitting the check. Respondent simultaneously must send copies of the check and transmittal letter to Robert H. Smith at the address in paragraph 29 and to:

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Opportunity to Request a Hearing

31. The Administrator must provide an opportunity to request a hearing to any person against whom the Administrator proposes to assess a penalty under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2). Respondent has the right to request a hearing on any material fact alleged in the complaint, or on the appropriateness of the proposed penalty, or both. To request a hearing, Respondent must specifically make the request in its answer, as discussed in paragraphs 32 through 37 below.

Answer

32. Respondent must file a written answer to this complaint if Respondent contests any material fact of the complaint;

contends that the proposed penalty is inappropriate; or contends that it is entitled to judgment as a matter of law. To file an answer, Respondent must file the original written answer and one copy with the Regional Hearing Clerk at the address specified in paragraph 28, above, and must serve copies of the written answer on the other parties.

33. If Respondent chooses to file a written answer to the complaint, it must do so within 30 calendar days after receiving the complaint. In counting the 30-day time period, the date of receipt is not counted, but Saturdays, Sundays, and federal legal holidays are counted. If the 30-day time period expires on a Saturday, Sunday, or federal legal holiday, the time period extends to the next business day.

34. Respondent's written answer must clearly and directly admit, deny, or explain each of the factual allegations in the complaint; or must state clearly that Respondent has no knowledge of a particular factual allegation. Where Respondent states that it has no knowledge of a particular factual allegation, the allegation is deemed denied.

35. Respondent's failure to admit, deny, or explain any material factual allegation in the complaint constitutes an admission of the allegation.

36. Respondent's answer must also state:

- a. the circumstances or arguments which Respondent alleges constitute grounds of defense;
- b. the facts that Respondent disputes;
- c. the basis for opposing the proposed penalty; and
- d. whether Respondent requests a hearing as discussed in paragraph 31 above.

37. If Respondent does not file a written answer within 30 calendar days after receiving this complaint the Presiding Officer may issue a default order, after motion, under 40 C.F.R. § 22.17. Default by Respondent constitutes an admission of all factual allegations in the complaint and a waiver of the right to contest the factual allegations. Respondent must pay any penalty assessed in a default order without further proceedings 30 days after the order becomes the final order of the Administrator of U.S. EPA under 40 C.F.R. § 22.27(c).

Settlement Conference

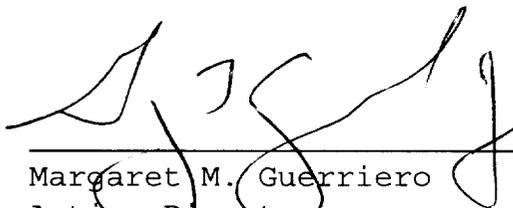
38. Whether or not Respondent requests a hearing, Respondent may request an informal settlement conference to discuss the facts of this proceeding and to arrive at a settlement. To request an informal settlement conference, Respondent may contact Robert H. Smith at the address or phone number specified in paragraph 29, above.

39. Respondent's request for an informal settlement conference does not extend the 30 calendar day period for filing a written answer to this complaint. Respondent may pursue simultaneously the informal settlement conference and the adjudicatory hearing process. U.S. EPA encourages all parties facing civil penalties to pursue settlement through an informal conference. U.S. EPA, however, will not reduce the penalty simply because the parties hold an informal settlement conference.

Continuing Obligation to Comply

40. Neither the assessment nor payment of a civil penalty will affect Respondent's continuing obligation to comply with the Act and any other applicable federal, state, or local law.

9/27/99
Date

 FOR

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

CAA-5-99-045

RECEIVED
REGIONAL OFFICE

In the Matter of Textron Automotive Company-
Rantoul Products

Docket No. CAA-5-99-045

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CERTIFICATE OF SERVICE

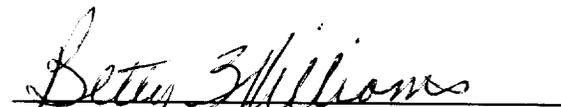
I, Betty Williams, certify that I hand delivered the original and one copy of the Administrative Complaint, docket number CAA-5-99-045 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies of the Administrative Complaint, copies of the "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders and the Revocation, Termination or Suspension of Permits" at 64 Fed. Reg. 40138 (1999) (to be codified at 40 C.F.R. Part 22), and copies of the penalty policy described in the Administrative Complaint by first-class, postage prepaid, certified mail, return receipt requested, to the Respondent and Respondent's Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Jeffrey T. Sedgwick
Environmental Health and Safety Coordinator
Rantoul Products
Textron Automotive Trim
707 Veterans Parkway
Rantoul, Illinois 61866

David Kolaz, Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

Harish Narayen, Acting Regional Manager
Illinois Environmental Protection Agency
Chicago Regional Office
1701 First Avenue - Suite 1202
Maywood, Illinois 60153

on the 29th day of September, 1999.


Betty Williams, Secretary
AECAS (IL/IN)

CAA-5-99-045

CERTIFIED MAIL RECEIPT NUMBER: P140895453