

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** )  
 )  
Tomen Agro, Inc. ) **NOTICE OF VIOLATION**  
Perry, Ohio )  
 ) **EPA-5-99-OH-12**  
 )  
Proceedings Pursuant to )  
Section 113(a)(1) of the )  
Clean Air Act, 42 U.S.C. )  
§ 7413(a)(1) )

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**NOTICE OF VIOLATION**

Pursuant to Section 113(a)(1) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1), the Administrator of the United States Environmental Protection Agency (U.S. EPA), by authority duly delegated to the undersigned, hereby notifies the State of Ohio and Tomen Agro, Inc. ("Tomen Agro") that U.S. EPA finds Tomen Agro, at 3647 Shepard Road, Perry, Ohio to be in violation of the federally approved State Implementation Plan for Ohio (Ohio SIP), as follows:

**Statutory and Regulatory Background**

1. 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.
2. Pursuant to Section 110 of the Act, the Administrator approved OAC Chapter 3745-31 as part of the federally enforceable Ohio SIP on October 31, 1980 (45 FR 72119). This approval included OAC Rules 3745-31-01, 3745-31-02 and 3745-31-05.
3. Pursuant to Section 110 of the Act, the Administrator approved OAC Chapter 3745-15 as part of the federally enforceable Ohio SIP on November 01, 1982 (47 FR 43377). This approval included OAC Rule 3745-15-06.

4. 40 CFR §52.23 provides, in part, that failure to comply with any provision of [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 action under section 113 of the Clean Air Act.
5. Tomen Agro is located at 3647 Shepard Road, Perry, Ohio in Lake County which is presently an area classified as attainment for ozone, unclassifiable for Particulate Matter at 10  $\mu\text{m}$  ( $\text{PM}_{10}$ ), unclassifiable/attainment for CO and better than national standards (for the city of Perry) for  $\text{SO}_2$ .

#### **Factual Background**

6. Tomen Agro owns and operates a perchloromethyl mercaptan (PMM) chemical manufacturing process unit (CMPU) located at 3647 Shepard Road in Perry, Ohio.
7. Emissions from PMM CMPU are subject to the General Provisions and Permits to Install New Sources of Pollution Regulations set forth in the Ohio SIP at OAC Rule 3745-15 and 3745-31, respectively.
8. On May 06, 1998, the Ohio Environmental Protection Agency ("OEPA") issued a PTI to Tomen Agro for a modification to the Crude PMM Distillation Column. The PTI establishes allowable mass emissions and control requirements for  $\text{SO}_2$ , hydrogen halides and halogens and for total organic compounds or Hazardous Air Pollutants ("HAPs"). The PTI also establishes special terms and conditions for operation, a BAT determination and requires compliance testing be conducted (and demonstrate compliance) within six months after the initial start-up of the new scrubber and the thermal oxidizer.
9. For the PMM distillation column, the allowable mass emissions are: 5.6 lb/hour (24.5 TPY)  $\text{SO}_2$ , 99 percent control and 0.45 Kg/hour (4.34 TPY) hydrogen halides and halogens, 98 percent overall control (or 20 ppm) and 1 lb/hr total organic compounds or HAPs and 4.4 TPY, and 0.42 lb/hr (2.0 TPY) PM.

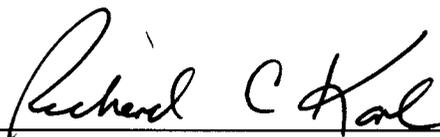
10. Operational restrictions for the Existing Wet Scrubber include maintaining the concentration of caustic in the scrubber liquor above 3 percent. Operational restrictions for the New (Final) Wet Scrubber include maintaining the pH of the scrubber liquor at or above 7.
11. The BAT determination established in the PTI issued May 06, 1998 includes special terms and conditions and compliance with applicable terms and conditions of the federal MACT Standards.
12. On September 17, 1998, Tomen Agro conducted a stack test to demonstrate compliance with the emission limits established in the PTI and with the requirements of the HON. Sorption tubes were used for Carbon Tetrachloride (CCl<sub>4</sub>) and Carbon Disulfide (CS<sub>2</sub>) sampling and recovery studies were conducted.

#### **Findings of Violation**

13. In violation of OAC Rule 3745-15-06(D)(3), Tomen Agro did not fully implement any preventative maintenance and malfunction plan during process malfunctions events occurring on October 19, 1998, November 22, 1998, December 10, 1998, January 14, 1999, January 15, 1999 and January 16, 1999.
14. In violation of OAC Rule 3745-31-02 and 3745-31-05, Tomen Agro failed to comply with the operational restrictions established in the PTI for the existing wet scrubber or new (final) wet scrubber on six dates identified at paragraph 13.
15. In violation of OAC Rule 3745-31-02 and 3745-31-05, Tomen Agro failed to demonstrate compliance with the General Emission Testing Requirements established in the PTI issued May 06, 1998.

3-2-99

Date



Richard C. Karl, Acting Director  
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shwanda Mayo, do hereby certify that a Notice of Violation and Finding of Violation, issued pursuant to the Clean Air Act, were sent by Certified Mail, Return Receipt Requested, to:

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

I also certify that copies of the Notice of Violation and Finding of Violation 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, Ohio 43216-1049

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

on the 2<sup>ND</sup> day of March, 1999.

Shwanda Mayo  
Shwanda Mayo, Secretary  
AECAS, (OH/MN)

CERTIFIED MAIL RECEIPT NUMBER: P 300 759 715