

Section 219.208(a), National is subject to the recordkeeping requirements in Section 219.211(b)(2) for an owner or operator of a coating line which is exempted from the limitations in Section 219.204 because of 219.208(a). The requirements in Section 219.211(b)(2) of the federally-approved SIP have been recodified at 35 Ill. Adm. Code § 219.211(b)(3).

33. National did not collect and record on a daily basis information regarding the name and identification number of each coating as applied on each coating line, the weight of VOM per volume, and the volume of each coating as applied each day on each coating line prior to 1999.

34. On or about August 4, 1999, National began collecting and recording the name of the coating applied and the volume of the coating applied but did not collect and record the weight of VOM per volume of each coating applied on each coating line as required by 35 Ill. Adm. Code § 219.211(b)(2).

35. National's failure to collect and record the name and identification number of each coating as applied on each coating line and the weight of VOM per volume and the volume of each coating as applied each day on each coating line is a violation of 35 Ill. Adm. Code § 219.211(b)(2).

Count II

36. Complainant incorporates paragraphs 1 through 22 of this Complaint, as if set forth in this paragraph.

37. At all times relevant to the Complaint, National utilized parts washers in the engine shop at its facility.

38. At all times relevant to the Complaint, National used

solvents containing "volatile organic materials" as defined at 35 Ill. Adm. Code § 211.7150 in the parts washers described in paragraph 37 above.

39. The parts washers described in paragraph 37 are "cold cleaning" "degreasers" as defined at 35 Ill. Adm. Code §§ 211.1310 and 211.1710, respectively.

40. Because National utilizes cold cleaning degreasers which use VOMs at its facility, National is subject to the requirements for solvent cleaning at 35 Ill. Adm. Code Part 219, Subpart E (Solvent Cleaning for the Metro East Area).

41. During the U.S. EPA and IEPA inspection on October 16, 1998, the covers on two cold cleaning degreasers in the engine shop were open and neither degreaser was in use, i.e., no parts were being handled.

42. National's failure to keep the covers closed on the cold cleaning degreasers when parts were not being handled is a violation of 35 Ill. Adm. Code § 219.182(a)(2).

Proposed Civil Penalty

43. 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).

44. 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 \$91,900. 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.

45. 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

46. 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 (July 23, 1999) 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

47. 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

48. 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 Christine Liszewski to receive any answer and subsequent legal documents

that Respondent serves in this proceeding. You may telephone Ms. Liszewski at (312) 886-4670. Ms. Liszewski's address is:

Christine Liszewski (C-14J)
Associate Regional Counsel
Office of Regional Counsel
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Penalty Payment

49. 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 Christine Liszewski 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

50. 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 51 through 56 below.

Answer

51. 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 47, above, and must serve copies of the written answer on the other parties.

52. 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.

53. 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.

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