



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

DEC 29 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jay Taylor
General Manager, North America
Emery Oleochemicals, LLC
4900 Este Avenue
Cincinnati, Ohio 45232

Re: Notice and Finding of Violation issued to Emery Oleochemicals, LLC

Dear Mr. Taylor:

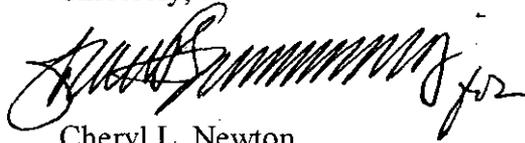
The U. S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to Emery Oleochemicals, LLC (Emery Oleochemicals). This NOV/FOV is issued in accordance with Section 113(a) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a).

EPA has determined that Emery Oleochemicals has violated visible emissions provisions contained in Ohio Administrative Code (OAC) 3745-17-07(A) of the Ohio State Implementation Plan, New Source Performance Standards at 40 C.F.R. Part 60, Subpart Db, and the Operating Permit requirements under Title V of the Act, 42 U.S.C. §§ 7661 – 7661e, at its Cincinnati, Ohio, manufacturing plant. EPA discovered these violations after reviewing the facility's Continuous Opacity monitoring data submitted in response to an EPA Section 114 information request.

EPA is offering you an opportunity to confer with us about the violations cited in this NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violations, and the steps you will take to bring the facilities into compliance. Please plan for your technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Gina Harrison. You may call her at (312) 353-6956 to request a conference. You should make your request for a conference no later than 10 calendar days after you receive this letter, and we should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton", with a stylized flourish at the end.

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Tom Wittekind
Hamilton County Department of Environmental Services

Robert Hodanbosi
Ohio Environmental Protection Agency

consecutive minutes in any sixty minutes, but shall not exceed sixty percent opacity, as a six-minute average, at any time.

4. 40 C.F.R. § 52.23 provides that failure to comply with any approved regulatory provision of a SIP shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Act.

New Source Performance Standards (NSPS), Subpart Db

5. Pursuant to Section 111 of the Act, 42 U.S.C. § 7411, EPA promulgated, on December 16, 1987, the NSPS, Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units (NSPS Subpart Db) at 40 C.F.R. Part 60, Subpart Db. 52 Fed. Reg. 47842 (December 16, 1987).

6. 40 C.F.R. § 60.40b(a) states that the affected facility to which this subpart applies is each steam generating unit that commences construction, modification, or reconstruction after June 19, 1984, and has a heat input capacity from fuels combusted in the steam generating unit of great than 29 megawatts (MW) (100 million British thermal units per hour (mmBtu/hr)).

7. 40 C.F.R. § 60.11(d) requires that at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Administrator which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

8. 40 C.F.R. § 60.43b(f) provides that on and after the date on which the initial performance test is completed or is required to be completed under §60.8, whichever date comes first, no owner or operator of an affected facility that can combust coal, oil, wood, or mixtures of these fuels with any other fuels shall cause to be discharged into the atmosphere any gases that exhibit greater than 20 percent opacity (6-minute average), except for one 6-minute period per hour of not more than 27 percent opacity.

9. Section 111(e) of the Act, 42 U.S.C. § 7411(e), provides that after the effective date of a promulgation of an NSPS, it shall be unlawful for any owner or operator of any new source to operate such source in violation of any standard of performance applicable to each source.

Title V Permit Requirements

10. Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires each state to develop and submit to EPA an operating permit program which meets the requirements of Title V. On

August 15, 1995, EPA granted Ohio final approval of its Title V operating permit program, effective October 1, 1995. 60 Fed. Reg. 42045; 40 C.F.R. Part 70, App. A. Ohio's Title V operating permit regulations are codified at OAC Chapter 3745-77, and are federally enforceable under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3).

11. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

12. On May 20, 2003, the Ohio Environmental Protection Agency issued to the Emery Facility a Title V operating permit, Facility ID # 14-31-07-4278.

13. Condition III.A.1.2.a of Emery Facility's Title V operating permit provides that, with respect to Boiler B027, "[v]isible particulate emissions shall not exceed 20 percent opacity, as a six-minute average, except for on six-minute period per hour of not more than 27 percent opacity."

Statutory Authority

14. Sections 113(a) of the Act, 42 U.S.C. § 7413(a), authorizes the Administrator of EPA to initiate an enforcement action whenever the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable SIP, an applicable NSPS, Title V the Act, or any permit or rule issued or approved under Title V of the Act.

FACTUAL BACKGROUND

15. Emery Oleochemicals owns and operates the Emery Facility. Prior to November 2008, Emery Oleochemicals was named Cognis Oleochemicals, LLC.

16. At the Emery Facility, Emery Oleochemicals owns and operates Boiler B027, a 683 mmBtu/hr multi-fuel boiler.

17. Boiler B027 is a steam generating unit subject to the emission standards of NSPS Subpart Db and the Ohio SIP.

18. On February 1, 2011, EPA issued a Section 114 information request to Emery Oleochemicals requesting, among other things, copies of all Quarterly Excess Emission Reports from January 1, 2006, through February 1, 2011.

19. Emery Oleochemicals responded to EPA's request on March 24, 2011, and submitted to EPA, among other things, opacity data derived from Boiler B027's Continuous Opacity Monitor for the period January 1, 2006, to December 31, 2010.

20. In its response, Emery Oleochemicals reported 1,731 total exceedances of the twenty percent opacity limit during the period January 6, 2006, to December 23, 2010, as six-minute averages, exiting the boiler stack of Boiler B027. *See Table 1.*

NOTICE AND FINDING OF VIOLATIONS

21. Emery Oleochemicals violated the visible emission limitations under OAC Chapter 3745-17-07(A) of the Ohio SIP, the NSPS Subpart Db at 40 C.F.R. § 60.43b(f), and Condition III.A.I.2.a of its Title V operating permit. Emery Oleochemicals also failed to comply with the good air pollution practice requirements of 40 C.F.R. § 60.11(d).

ENVIRONMENTAL IMPACT OF VIOLATIONS

22. Violation of opacity standards is indicative of mass emission standards violations. Such violations increase public exposure to, among other pollutants, particulate matter. Particulate matter, especially fine particulate, contributes to respiratory problems, lung damage and premature deaths.

12/29/11

Date



Cheryl L. Newton
Director
Air and Radiation Division

Table 1: Exceedances of Opacity Limit at Boiler #1, in Minutes:¹

Quarter/Year	Minutes of Exceedance at Boiler #1
1st Q. 2006	3198
2nd Q. 2006	6
3rd Q. 2006	834
4th Q. 2006	114
1st Q. 2007	264
2nd Q. 2007	156
3rd Q. 2007	18
4th Q. 2007	30
1st Q. 2008	378
2nd Q. 2008	330
3rd Q. 2008	714
4th Q. 2008	360
1st Q. 2009	444
2nd Q. 2009	498
3rd Q. 2009	36
4th Q. 2009	186
1st Q. 2010	102
2nd Q. 2010	42
3rd Q. 2010	996
4th Q. 2010	54

¹This table represents exceedances of the NSPS standard of no more than 20 percent opacity, as a six-minute average, except for one six-minute period per hour of not more than 27 percent opacity. Many of these exceedances also violated the visible emission standards of OAC Chapter 3745-17-07(A) under the Ohio SIP, which is less stringent than the NSPS.

CERTIFICATE OF MAILING

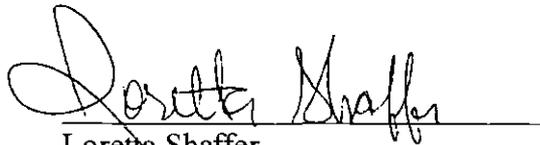
I, Betty Williams, certify that I sent a Notice and Finding of Violation, No. EPA-5-12-OH-09, by Certified Mail, Return Receipt Requested, to:

Jay Taylor
General Manager, North America
Emery Oleochemicals, LLC
4900 Este Avenue
Cincinnati, Ohio 45232

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Tom Wittekind
Hamilton County Department of Environmental Services
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660

On the 29 day of December 2011.



Loretta Shaffer
Administrative Program Assistant
Planning Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 76739061