



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 23 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Boyd
Branch Manager
PPG Industries
760 Pittsburgh Drive
Delaware, Ohio 43015

Dear Mr. Boyd:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves CAA-05-2014-0006. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on DEC 27 2013.

Pursuant to paragraph 41 of the CAFO, PPG Industries, Inc. must pay the civil penalty within 30 days of DEC 27 2013. Your check must display the case name PPG Industries and the docket number CAA-05-2014-0006.

Please direct any questions regarding this case to Cynthia King, Associate Regional Counsel, at 312-886-6831.

Sincerely,

Sarah Marshall
Air Enforcement and Compliance Assurance Section Chief (MI/WI)

Enclosure

cc: Marcy Toney, Regional Judicial Officer, C-14J
Regional Hearing Clerk, E-19J
Cynthia King/C-14J
Adam Ward, Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	Docket No. CAA-05-2014-0006
)	
PPG Industries, Inc.)	Proceeding to Assess a Civil Penalty
Delaware, Ohio,)	Under Section 113(d) of the Clean Air Act,
)	42 U.S.C. § 7413(d)
Respondent.)	
_____)	

RECEIVED
U.S. ENVIRONMENTAL PROTECTION AGENCY
2013 DEC 27 11:41 AM

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the CAA), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.
2. Complainant is the Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5.
3. Respondent is PPG Industries, Inc. (PPG or Respondent), a corporation doing business in Ohio.
4. Under 40 C.F.R. § 22.13(b), where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO).
5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.
6. PPG consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. PPG admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. For the purpose of this proceeding, PPG waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated National Emission Standards for Hazardous Air Pollutants (NESHAP) for Miscellaneous Organic Chemical Manufacturing at 40 C.F.R. Part 63, Subpart FFFF on November 10, 2003 (68 Fed. Reg. 63888). Under 40 C.F.R. § 63.2445(b), the owner or operator of an existing affected source as of November 10, 2003 must comply with the provisions of this subpart no later than May 10, 2008.

10. Subpart FFFF, at 40 C.F.R. § 63.2435(a), applies to owners or operators of miscellaneous organic chemical manufacturing process units (MPCUs) that are located at, or are part of, a major source of hazardous air pollutants (HAP) emissions as defined in Section 112(a) of the Act, 42 U.S.C. § 7412(a).

11. Subpart FFFF, at 40 C.F.R. § 63.2450(e)(1), states that except when complying with 40 C.F.R. § 63.2485, if you reduce organic HAP emissions by venting emissions through a closed-vent system to any combination of control devices (except a flare) or recovery devices, you must meet the requirements of 40 C.F.R. § 63.982(c) and the requirements referenced therein.

12. Subpart FFFF, at 40 C.F.R. § 63.2460(a), states that the owner or operator of an affected source must meet each emission limit in Table 2 to this subpart that applies to its batch processes.

13. Subpart FFFF, at 40 C.F.R. § 63.2470(a), states that the owner or operator of an affected source must meet each emission limit in Table 4 to this subpart that applies to its storage tanks.

14. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated NESHAP for Miscellaneous Coating Manufacturing at 40 C.F.R. Part 63, Subpart HHHHH on December 11, 2003 (68 Fed. Reg. 69185). Under 40 C.F.R. § 63.7995(d), the owner or operator of an existing affected source as of December 11, 2003 must comply with the provisions of this subpart no ~~later~~ than December 11, 2006.

15. Subpart HHHHH, at 40 C.F.R. § 63.7985(a), applies to owners or operators of miscellaneous coating manufacturing operations that are located at, or are part of, a major source of HAP emissions as defined in Section 112(a) of the Act, 42 U.S.C. § 7412(a).

16. Subpart HHHHH, at 40 C.F.R. § 63.8000(c)(1), states if you reduce organic HAP emissions by venting emissions through a closed-vent system to any combination of control devices (except a flare) or recovery devices, you must meet the requirements of 40 C.F.R. § 63.982(c) and the requirements referenced therein.

17. Subpart HHHHH, at 40 C.F.R. § 63.8005(a), states that the owner or operator of an affected source must meet each emission limit in Table 1 to this subpart that applies to its process vessels.

18. Pursuant to Section 112(d) of the Act, 42 U.S.C. § 7412(d), EPA promulgated NESHAP for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel

Gas System or a Process at 40 C.F.R. Part 63, Subpart SS on June 29, 1999 (64 Fed. Reg. 34866). Subpart SS, at 40 C.F.R. § 63.980, states that it applies to owners and operators of facilities subject to a referencing subpart.

19. Subpart SS, at 40 C.F.R. § 63.982(c), states that owners or operators who control emissions through a closed vent system to a nonflare control device shall meet the requirements in 40 C.F.R. § 63.983 for closed vent systems, the applicable recordkeeping and reporting requirements at 40 C.F.R. §§ 63.998 and 63.999, and the applicable requirements listed in paragraphs (c)(1) through (3) of this section.

20. Subpart SS, at 40 C.F.R. § 63.985(a), states that the owner or operator shall operate and maintain the nonflare control device so that the monitored parameters defined as required in paragraph (c) of this section remain within the ranges specified in the Notification of Compliance Status whenever emissions of regulated material are routed to the control device except during periods of start-up, shutdown, and malfunction as specified in the referencing subpart.

21. Subpart SS, at 40 C.F.R. § 63.999(c)(6)(i), states that periodic reports shall include the daily average values of monitored parameters, calculated as specified in 40 C.F.R. § 63.998(b)(3)(i) for any days when the daily average value is outside the bounds as defined in 40 C.F.R. § 63.998(c)(2)(iii) or (c)(3)(iii), or the data availability requirements defined in paragraphs (c)(6)(i)(A) through (D) of this section are not met, whether these excursions are excused or unexcused excursions.

22. 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.

23. On January 17, 2003, Ohio EPA issued Title V permit (P0082293) to PPG for the facility.

24. The facility's Title V Permit, Part III, Section A, Condition II-1, requires that for emission units P003, P006, P008, P009, P010, P042, and P043, the average combustion temperature within the thermal oxidizer, for any 3-hour block of time when the emissions unit is in operation (excluding periods of startup, shutdown, or malfunction), shall not be less than 1300 degrees F.

25. In the facility's Title V Permit, Part III, Section A, Condition IV, requires that for emission units P003, P006, P008, P009, P010, P042, and P043, the permittee is to submit quarterly deviation (excursion) reports that identify all 3-hour blocks of time during which the average combustion temperature does not comply with the temperature limitation specified above.

26. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 through January 12, 2009 and may assess a civil penalty of up to \$37,500 per day of violation up to a total of \$295,000 for violations that occurred after January 12, 2009, under Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

27. Section 113(d)(1), 42 U.S.C. § 7413(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 the Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

28. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Factual Allegations and Alleged Violations

29. PPG owns and operates a resin and coating manufacturing facility at 760 Pittsburgh Drive, Delaware, Ohio.

30. At the facility there is resin manufacturing that is a miscellaneous chemical manufacturing unit as defined at 40 C.F.R. § 63.2435(b), and there are also manufacturing operations as defined at 40 C.F.R. § 63.7985(b).

31. On April 30, 2007, PPG submitted its Notification of Compliance Status for applicability of Subpart HHHHH at the facility.

32. On October 6, 2008, PPG submitted its Notification of Compliance Status for applicability of Subpart FFFF at the facility.

33. At the facility, PPG controls emissions from the plant processes through a thermal oxidizer unit (TOU), which is a nonflare control device.

34. On October 31, 2006, PPG conducted a performance test in accordance with the requirements of Subpart SS. Based on the results of that test, PPG was required to operate its TOU at 1335 degrees F.

35. On May 6, 2008, PPG conducted another performance test in accordance with the requirements of Subpart SS. Based on the results of that test, PPG was required to operate its TOU at 1347 degrees F.

36. The Title V permit requires that the average combustion temperature limit within the TOU be at least 1300 degrees F.

37. On October 13, 2011, EPA received a letter from PPG which amended previously submitted Semiannual Compliance Reports for 40 C.F.R. Subpart FFFF and 40 C.F.R. 63 Subpart HHHHH with additional deviations that PPG had identified.

38. Specifically, PPG reported that in its previously submitted reports, PPG had confused the Subparts FFFF and HHHHH NESHAP and Title V permit average daily temperature reporting limits for its TOU.

39. On September 26, 2012, EPA issued a Finding of Violation for the previously unreported deviations.

Civil Penalty

40. Based on analysis of the factors specified in Section 113(e) of the CAA, 42 U.S.C. § 7413(e), the facts of this case and cooperation, Complainant has determined that an appropriate civil penalty to settle this action is \$50,000.

41. Within 30 days after the effective date of this CAFO, Respondent must pay a \$50,000 civil penalty by sending a cashier's or certified check, payable to "Treasurer, United States of America," to:

U.S. EPA
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

The check must note Respondent's name and docket number of this CAFO.

42. PPG must send a notice of payment that states PPG's name, and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

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

Cynthia A. King (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

43. This civil penalty is not deductible for federal tax purposes.

44. If PPG does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

45. PPG must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). PPG must pay the United States enforcement expenses, including but not limited to attorneys fees and costs incurred by the United States for collection proceedings. In addition, PPG must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7413(d)(5).

General Provisions

46. This CAFO resolves only PPG's liability for federal civil penalties for the violations alleged in this CAFO.

47. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

48. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 46, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

49. Respondent certifies, upon information and belief, that it is complying with the TOU temperature and reporting requirements in its Title V permit and the Subparts SS, FFFF, and HHHHH NESHAPs.

50. This CAFO constitutes an "enforcement response" as that term is used in EPA's Clean Air Act Stationary Civil Penalty Policy to determine Respondent's "full compliance history" under Section 113(e) of the CAA, 42 U.S.C. § 7413(e).

51. The terms of this CAFO bind Respondent, its successors and assigns.

52. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

53. Each party agrees to bear its own costs and attorneys fees in this action.

54. This CAFO constitutes the entire agreement between the parties.

55. This CAFO shall become effective immediately upon filing with the Regional Hearing Clerk.

**Consent Agreement and Final Order
In the Matter of: PPG Industries, Inc.
Docket No.**

PPG Industries, Inc., Respondent

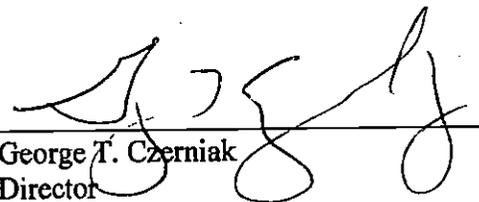
12-18-13
Date



Carl E. Johnson
Director, Manufacturing - NA Refinish
PPG Industries, Inc.

United States Environmental Protection Agency, Complainant

12/20/13
Date



George T. Czerniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

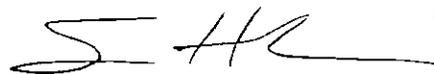
**Consent Agreement and Final Order
In the Matter of: PPG Industries, Inc.
Docket No.**

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

12/23/13

Date



Susan Hedman
Regional Administrator
U.S. Environmental Protection Agency
Region 5

**Consent Agreement and Final Order
In the Matter of: PPG Industries, Inc.
Docket No.**

Certificate of Service

I certify that I filed the original and one copy of the Consent Agreement and Final Order (CAFO), docket number **CAA-05-2014-0006** with the Regional Hearing Clerk (E-19J), United States Environmental Protection Agency, Region 5, 77 W. Jackson Boulevard, Chicago, Illinois 60604, and that I mailed the second original copy to Respondent by first-class, postage prepaid, certified mail, return receipt requested, by placing it in the custody of the United States Postal Service addressed as follows:

James Boyd
Branch Manager
PPG Industries
760 Pittsburgh Drive
Delaware, Ohio 43015

I certify that I delivered a correct copy of the CAFO by intra-office mail, addressed as follows:

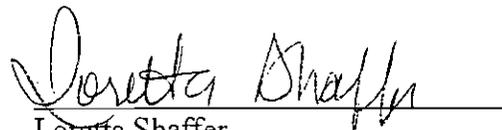
Marcy Toney
Regional Judicial Officer (C-14J)
U.S. Environmental Protection Agency
77 W. Jackson Boulevard
Chicago, Illinois 60604

2013 DEC 27 PM 1:45
RECEIVED
U.S. ENVIRONMENTAL PROTECTION AGENCY
REGIONAL HEARING CLERK (E-19J)

I also certify that I mailed a correct copy of the CAFO by first-class mail to:

Adam Ward
Manager
Ohio Environmental Protection Agency
Central District Office
P.O. Box 1049
Columbus, Ohio 43216-1049

On the 30 day of December 2013.



Loretta Shaffer
Administrative Program Assistant
AECAB, Planning and
Administration Section

CERTIFIED MAIL RECEIPT NUMBER:

70091680 0000 7669 6364