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

SEP 2 8 2012

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**
**RETURN RECEIPT REQUESTED**

Jerry Schill, Vice President of Operations
Chemical Solvents, Inc.
3751 Jennings Road
Cleveland, OH 44109

Re: Notice and Finding of Violation
Chemical Solvents, Inc.
Cleveland, Ohio

Dear Mr. Schill:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Chemical Solvents, Incorporated (you) under Section 113(a)(1) and (3) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(1) and (3).

As explained in the NOV/FOV, EPA finds that you have violated and are violating the Act, the Act's implementing regulations, and the Ohio State Implementation Plan (Ohio SIP) at your Cleveland, Ohio facility. Section 113 of the Act, 42 U.S.C. § 7413, gives us several enforcement options to resolve these violations. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings and violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. You should make the request for such a conference within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter. Please plan for your facility's technical and management personnel to attend any conference to discuss compliance measures and commitments. You may have an attorney represent you at any conference.

The EPA contact in this matter is Katharina Bellairs. You may call her at 312.353.1669 to request a conference. The EPA hopes that this NOV/FOV will encourage you to comply with the requirements of the Act and the Ohio SIP.

Sincerely,

George T. Czerniak
Acting Director
Air and Radiation Division

cc: Bob Hodanbosi, Chief, Division of Air Pollution Control

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 5**

| | | |
|---|---|---|
| **IN THE MATTER OF:** | ) | |
| | ) | Proceeding Pursuant to the |
| Chemical Solvents, Inc. | ) | Clean Air Act, 42 U.S.C. §§ 7401-7671q |
| Cleveland, Ohio | ) | |
| | ) | **EPA-5-12-OH-22** |
| | ) | |

## NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice and Finding of Violation (NOV/FOV) to Chemical Solvents, Inc. (you) to notify you that we found violations of Section 112 of the Clean Air Act (the Act) 42 U.S.C. § 7412, the Operating Permit requirements under Title V of the Act, 42 U.S.C. §§ 7661 – 7661e, and the Ohio State Implementation Plan (SIP) at your facility in Cleveland, Ohio. The relevant statutory and regulatory background, factual background, violations, and environmental impact of these violations are set forth in detail below.

This NOV/FOV is issued in accordance with Section 113(a)(1) and (a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (a)(3), which authorize the Administrator to take certain enforcement actions after notifying a person that it is in violation of the Act. The authority to issue this NOV/FOV has been delegated by the Administrator to the Regional Administrator and re-delegated to the Director of the Air and Radiation Division for Region 5 of the EPA.

### Relevant Statutory and Regulatory Background

NESHAP from Off-Site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD[1]

1. Section 112 of the Act, 42 U.S.C. § 7412(c), requires EPA to promulgate a list of all categories and subcategories of new and existing "major sources" of hazardous air pollutants (HAP), and establish emissions standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP). The EPA codified these standards at 40 C.F.R. Parts 61 and 63.

2. "Major source" is defined as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants." 42 U.S.C. § 7412(a)(1).

[1] Terms used in the subsection entitled "NESHAP from Off-Site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD" shall have the meanings assigned to them in 40 C.F.R. § 63.681, unless otherwise stated.

3. "Stationary source" is defined as "any building, structure, facility, or installation, which emits or may emit any air pollutant." 42 U.S.C. § 7411(a)(3).

4. "Hazardous air pollutant" is defined as "any air pollutant listed in or pursuant to" Section 112(b) of the Act. 42 U.S.C. § 7412(a)(6).

5. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), prohibits any person subject to a NESHAP from operating a source in violation of a NESHAP after its effective date.

6. The NESHAP from Off-site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD (Subpart DD), was promulgated on July 1, 1996, and amended on July 20, 1999, and January 8, 2001. 61 Fed. Reg. 34140, 64 Fed. Reg. 38950, 66 Fed. Reg. 1263.

7. Pursuant to 40 C.F.R. Part 63, Subpart DD, owners or operators of existing affected sources that commenced construction or reconstruction before October 13, 1994, and received off-site material for the first time before February 1, 2000, must achieve compliance on or before February 1, 2000, unless an extension has been granted by the Administrator as provided in 40 C.F.R. § 63.6(i).

8. The provisions of 40 C.F.R. Part 63, Subpart DD apply to the owner and operator of a plant site that is a major source of HAP emissions as defined in 40 C.F.R. § 63.2, is a waste management operation that received off-site material, and is an operation that is regulated as a hazardous waste treatment, storage, and disposal facility (TSDF) under either 40 C.F.R. Part 264 or 265. 40 C.F.R § 63.680(a)(1), (2)(i).

9. 40 C.F.R. Part 63, Subpart DD states that an "off-site material" is a material that meets all of the criteria specified in 40 C.F.R. § 63.680(b)(1) but is not one of the materials specified in 40 C.F.R. § 63.680(b)(2).

10. In order to qualify as "off-site material" under 40 C.F.R. Part 63, Subpart DD, the material must meet all of the following criteria: (i) the material is a waste, used oil, or used solvent as defined in 40 C.F.R. § 63.681; (ii) the waste, used oil, or used solvent is not produced or generated within the plant site, but the material is delivered, transferred, or otherwise moved to the plant site from a location outside the boundaries of the plant site; and (iii) the waste, used oil, or used solvent contains one or more of the HAP listed in Table 1 of 40 C.F.R. Part 63, Subpart DD. 40 C.F.R § 63.680(b)(1)(i)-(iii).

11. For each waste management operation subject to 40 C.F.R. Part 63, Subpart DD that is located at the plant site, the affected source is the entire group of off-site material management units associated with the operation. An off-site material management unit is a tank, container, surface impoundment, oil-water separator, organic-water separator, or transfer system used to manage off-site material. For the purpose of implementing the standards under 40 C.F.R. Part 63, Subpart DD, a unit that meets the definition of a tank or container but also is equipped with a vent that serves as a process vent for any of the processes listed in 40 C.F.R. § 63.680(c)(2)(i) through (c)(2)(vi) is not an off-site material management unit but instead is a process vent and is to be included in the appropriate affected source group under 40 C.F.R. § 63.680(c)(2). Examples of such a

unit may include, but are not limited to, a distillate receiver vessel, a primary condenser, a bottoms receiver vessel, a surge control tank, a separator tank, and a hot well. 40 C.F.R § 63.680(c)(1).

12. For each waste management operation subject to 40 C.F.R. Part 63, Subpart DD that is located at the plant site, the affected source is the entire group of process equipment associated with the process vents for the processes listed in 40 C.F.R. § 63.680(c)(2)(i) through (c)(2)(vi). 40 C.F.R § 63.680(c)(2).

13. 40 C.F.R. § 63.680(c)(2)(iii) lists a "[t]hin-film evaporation process used for treatment, recycling, or recovery of off-site material," and goes on to state that "[t]hin-film evaporation means a liquid mixture separation process or method that uses a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical."

14. For each waste management operation subject to 40 C.F.R. Part 63, Subpart DD that is located at the plant site, the affected source is the entire group of equipment components for which each component meets all of the conditions specified in 40 C.F.R. § 63.680(c)(3)(i) through (c)(3)(iii).

15. To be subject to 40 C.F.R. Part 63, Subpart DD, each equipment component must meet all of the following criteria: (i) it must be a pump, compressor, agitator, pressure relief device, sampling connection system, open-ended valve or line, valve, connector, or instrumentation system; (ii) it must contain or contact off-site material having a total HAP concentration equal to or greater than 10 percent by weight; and (iii) it must be intended to operate for 300 hours or more during a calendar year in off-site material service, as defined in 40 C.F.R. § 63.681. 40 C.F.R. § 63,680(c)(3)(i)-(iii).

16. For each off-site material management unit subject to 40 C.F.R. Part 63, Subpart DD that is part of an affected source, the owner or operator must satisfy one of the following requirements: (i) the owner or operator must control air emissions from the off-site material management unit in accordance with the applicable standards specified in 40 C.F.R. §§ 63.685 through 63.689; (ii) the owner or operator must remove or destroy HAP in the off-site material before placing the material in the off-site material management unit by treating the material in accordance with the standards specified in 40 C.F.R. § 63.684; or (iii) the owner or operator must determine, before placing off-site material in the off-site material management unit, that the average VOHAP (volatile organic HAP) concentration of the off-site material is less than 500 parts per million by weight (ppmw) at the point-of-delivery. 40 C.F.R. § 63.683(b)(1)(i)-(iii).

17. For each process vent that is part of an affected source, 40 C.F.R. Part 63, Subpart DD requires the owner or operator to either control air emissions from the process vent in accordance with the standards specified in 40 C.F.R. § 63.690, or determine, before placing off-site material in the process equipment associated with the process vent, that the average VOHAP concentration of the off-site material is less than the ppmw at the point-of-delivery. The owner or operator must perform an initial determination of the

average VOHAP concentration of the off-site material using the procedures specified in 40 C.F.R. § 63.694(b) before any portion of the off-site material stream is placed in the unit. Thereafter, the owner or operator must review and update, as necessary this determination at least once every calendar year following the date of the initial determination for the off-site material stream. 40 C.F.R § 63.683(c)(1)(i)-(ii).

18. For equipment leaks from each equipment component that is part of an affected source specified in 40 C.F.R. § 63.680(c)(3), 40 C.F.R. Part 63, Subpart DD requires the owner or operator to control equipment leaks by implementing leak detection and control measures in accordance with the standards specified in 40 C.F.R. § 63.691. 40 C.F.R § 63.683(d).

19. 40 C.F.R. Part 63, Subpart DD requires owners or operators of an affected source to control air emissions from tanks in accordance with the applicable requirements of 40 C.F.R. § 63.685.

20. 40 C.F.R. Part 63, Subpart DD requires owners or operators of affected sources to control air emissions from containers in accordance with the applicable requirements of 40 C.F.R. § 63.688.

21. 40 C.F.R. Part 63, Subpart DD requires owners or operators of affected sources to control air emissions from transfer systems in accordance with the applicable requirements of 40 C.F.R. § 63.689. For each transfer system that is subject to 40 C.F.R. Part 63, Subpart DD and is an individual drain system, the owner or operator must control air emissions in accordance with the standards specified in 40 C.F.R. Part 63, Subpart RR – NESHAP for Individual Drain Systems. For each transfer system that is subject to 40 C.F.R. Part 63, Subpart DD but is not an individual drain system, the owner or operator must control air emissions by using one of the transfer systems specified in 40 C.F.R. § 63.689(c)(1) through (3).

22. 40 C.F.R. Part 63, Subpart DD requires owners or operators to control air emissions from process vents by routing the vent stream from each affected process vent through a closed-vent system to a control device that meets the standards specified in 40 C.F.R. § 63.693. A primary condenser is not a control device; however, a second condenser or other organic recovery device that is operated downstream of the primary condenser is considered a control device. 40 C.F.R. § 63.690(b).

23. 40 C.F.R. Part 63, Subpart DD requires owners or operators to control air emissions from equipment leaks by utilizing one of the following options: (i) controlling HAP emitted from equipment leaks in accordance with 40 C.F.R. §§ 61.242-61.247; or (ii) controlling HAP emitted from equipment leaks in accordance with 40 C.F.R. §§ 63.162-63.182. 40 C.F.R § 63.691(b).

24. For each closed-vent system and control device used to comply with 40 C.F.R. Part 63, Subpart DD, the owner or operator must use a closed vent system that meets the requirements of 40 C.F.R. § 63.693(c), and must use a control device that meets the requirements of 40 C.F.R. § 63.693(d) through (h) as applicable to the type and design of

the control device selected by the owner or operator to comply with the provisions of 40 C.F.R. § 63.693.

25. With respect to closed-vent systems used to comply with 40 C.F.R. Part 63, Subpart DD, the vent stream required to be controlled must be conveyed to a control device by one of the following closed-vent systems: (i) a closed-vent system that is designed to operate with no detectable organic emissions using the procedure specified in 40 C.F.R. § 63.694(k); or (ii) a closed-vent system that is designed to operate at a pressure below atmospheric pressure and is equipped with at least one pressure gage or other pressure measurement device that can be read from a readily accessible location to verify that negative pressure is being maintained in the closed-vent system when the control device is operating. 40 C.F.R. § 63.693(c)(1).

26. With respect to a condenser control device used to comply with 40 C.F.R. Part 63, Subpart DD, the condenser must achieve one of the following performance specifications: (i) recover 95 percent or more, on a weight-basis, of the total organic compounds (TOC), less methane and ethane, contained in the vent stream entering the condenser; or (ii) recover 95 percent or more, on a weight-basis, of the total HAP, listed in Table 1 of 40 C.F.R. Part 63, Subpart DD, contained in the vent stream entering the condenser. 40 C.F.R. § 63.693(e)(1).

27. To demonstrate that the condenser control device achieves the performance specifications in 40 C.F.R. § 63.693(e)(1), the owner or operator must either perform a performance test as specified in 40 C.F.R. § 63.693(e)(2)(i) or a design analysis as specified in 40 C.F.R. § 63.693(e)(2)(ii).

28. Pursuant to 40 C.F.R. § 63.693(e)(2)(i), an owner or operator choosing to use a performance test to demonstrate compliance must conduct the test in accordance with the requirements of 40 C.F.R. § 63.694(l).

29. Pursuant to 40 C.F.R. § 63.693(e)(2)(ii), an owner or operator choosing to use a design analysis to demonstrate compliance must include as part of this design analysis the following information: description of the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature; and specification of the design outlet organic compound concentration level, design average temperature of the condenser exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet.

30. Pursuant to 40 C.F.R. § 63.693(e)(3), an owner or operator that uses a condenser control device to comply with 40 C.F.R. Part 63, Subpart DD must monitor the operation in accordance with the requirements of 40 C.F.R. § 63.695(e) using one of the following continuous monitoring systems: (i) a continuous parameter monitoring system to measure and record the daily average temperature of the exhaust gases from the control device --, and the accuracy of the temperature monitoring device shall be ±1 percent of the temperature being measured, expressed in degrees Celsius or ±5 °C, whichever is greater; (ii) a continuous monitoring system to measure and record the daily average concentration level of organic compounds in the exhaust gas stream from the control

device, the organic monitoring system must comply either with Performance Specification 8 or 9 in 40 C.F.R. Part 60, Appendix B, and the relative accuracy provision of Performance Specification 8, Sections 2.4 and 3 need not be conducted; (iii) a continuous monitoring system that measures other alternative operating parameters upon approval of the Administrator as specified in 40 C.F.R. § 63.8(f)(1)-(f)(5). 40 C.F.R. § 63.693(e)(3).

31. Inspection and monitoring procedures required to comply with 40 C.F.R. Part 63, Subpart DD are provided in 40 C.F.R. § 63.695(b) through (e) as follows: (i) the procedures to inspect tank fixed roofs and floating roofs for compliance with the Tank Level 2 controls standards specified in 40 C.F.R. § 63.685 are set forth in 40 C.F.R. § 63.695(b); (ii) the procedures to inspect and monitor closed-vent systems for compliance with the standards specified in 40 C.F.R. § 63.693 are set forth in 40 C.F.R. § 63.695(c); (iii) the procedures to inspect and monitor transfer system covers for compliance with the standards specified in 40 C.F.R. § 63.689(c)(1) are set forth in 40 C.F.R. § 63.695(d); (iv) the procedures to monitor and record off-site material treatment processes for compliance with the standards specified in 40 C.F.R. § 63.684(e) are set forth in 40 C.F.R. § 63.695(e). 40 C.F.R. § 63.695(a).

32. An owner or operator of an affected source subject to 40 C.F.R. Part 63, Subpart DD must comply with the recordkeeping requirements of Table 2 of 40 C.F.R. § 63.10. 40 C.F.R. § 63.696(a).

33. An owner or operator of a control device subject to 40 C.F.R. Part 63, Subpart DD must maintain records in accordance with the requirements of 40 C.F.R. § 63.10. 40 C.F.R. § 63.696(b).

34. An owner or operator using a fixed roof to comply with the tank control requirements in 40 C.F.R. § 63.685(g) must prepare and maintain the following records: (i) a record for each inspection required by 40 C.F.R. § 63.695(b), as applicable to the tank, that includes the following information: a tank identification number (or other unique identification description as selected by the owner or operator) and the date of inspection; (ii) a record for each defect detected during inspections required by 40 C.F.R. § 63.695(b), that includes the following information: the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect. 40 C.F.R § 63.696(e).

35. An owner or operator of an affected source must submit notices and reports to the Administrator in accordance with the applicable notification requirements in Table 2 of 40 C.F.R. § 63.9. An owner or operator subject to the initial notification requirements under 40 C.F.R. § 63.9(b)(2) must submit the required notification on or before October 19, 1999. 40 C.F.R § 63.697(a).

36. An owner or operator of a control device used to meet the requirements of 40 C.F.R. § 63.693 must submit the following notifications and reports to the Administrator: (i) a Notification of Performance Tests specified in 40 C.F.R. § 63.7 and 40 C.F.R. § 63.9(g); (ii) performance test reports specified in 40 C.F.R. § 63.10(d)(2); (iii) startup, shutdown,

and malfunction reports specified in 40 C.F.R. § 63.10(d)(5); and (iv) a summary report specified in 40 C.F.R. § 63.10(e)(3) submitted on a semiannual basis. 40 C.F.R. § 63.697(b).

Ohio State Implementation Plan

37. On August 13, 1984, EPA approved Ohio Administrative Code rule (OAC) 3745-15-07 as a part of the federally enforceable SIP for Ohio. 49 Fed. Reg. 32181.

38. OAC 3745-15-07(A) states that "[e]xcept as provided in paragraph (B) of this rule, the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dust, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property, is hereby found and declared to be a public nuisance. It shall be unlawful for any person to cause, permit or maintain any such public nuisance."

39. On April 16, 1997, EPA approved OAC 3745-21-07 as part of the federally enforceable SIP for Ohio. 62 Fed. Reg. 18520. On August 19, 2011, EPA approved a revised version of OAC 3745-21-07 as part of the federally enforceable SIP for Ohio. 76 Fed. Reg. 51901.

40. OAC 3745-21-07(G)(2) states that "[a] person shall not discharge more than forty pounds of organic material into the atmosphere in any one day, nor more than eight pounds in any one hour, from any article, machine, equipment, or other contrivance used under conditions other than described in paragraph (G)(1) of this rule for employing, applying, evaporating or drying any photochemically reactive material, or substance containing such photochemically reactive material, unless said discharge has been reduced by at least eighty-five percent."

41. OAC 3745-21-01 (B)(6) defines "volatile organic compound" (VOC) as any organic compound which participates in atmospheric photochemical reactions.

42. On January 22, 2003, EPA approved OAC 3745-31-02 as part of the federally enforceable SIP for Ohio. 68 Fed. Reg. 2909.

43. OAC 3745-31-02(A)(1) states that "[e]xcept as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants . . . , or cause, permit, or all the modification of an air contaminant source . . . , without first obtaining a permit to install from the director."

44. On January 22, 2003, EPA approved OAC 3745-31-05 as part of the federally enforceable SIP for Ohio. 68 Fed. Reg. 2909.

45. OAC 3745-31-05(A) states "[t]he director shall issue a permit to install or plan approval, on the basis of the information appearing in the application, or information gathered by or furnished to the Ohio environmental protection agency, or both, if he determines that the

installation or modification and operation of the air contaminant source... will: (3) Employ the best available technology, except when the only requirement to obtain a permit to install is due to a modification as described in paragraph (VV)(1)(b) of rule 3745-31-01 and paragraph (A)(2) of rule 3745-31-02 of the Administrative Code."

46. OAC 3745-31-05(D) states that "[t]he director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions necessary to ensure compliance with requirements mandated by the federal Clean Air Act or regulations promulgated by the administrator thereunder, including synthetic minor emissions unit conditions that restrict the stationary source's potential to emit below major size cutoffs, shall be federally enforceable and designated as such in the permit to install."

47. On June 10, 1982, EPA approved OAC 3745-35-02 as a part of the federally enforceable SIP for Ohio. 47 Fed. Reg. 25144.

48. OAC 3745-35-02(A) states that "[e]xcept as otherwise provided in paragraph (H) of this rule and in rules 3745-35-03 and 3745-35-05 of the Administrative Code, no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental Protection Agency in accordance with the requirements of this rule."

49. On October 30, 1995, EPA approved OAC 3745-35-07 as part of the federally enforceable SIP for Ohio. 60 Fed. Reg. 55201.

50. OAC 3745-35-07(B) provides that federally enforceable limitations on the potential to emit of a source may be established through, among other mechanisms: terms and conditions of a final permit to install issued under OAC 3745-31; or terms and conditions of a final permit to operate issued under OAC 3745-35, provided that only those terms and conditions necessary to limit the potential to emit of the source and expressly designated as federally enforceable shall be federally enforceable, and provided further that the permit was first issued as a draft or proposed action with an opportunity for public comment under OAC 3745-47-05.

51. 40 C.F.R. § 52.23 allows EPA to take enforcement action under Section 113 of the Act, 42 U.S.C. § 7413, when a person fails to comply with any permit limitation or condition contained within a permit issued under a SIP-approved permit program.

FEPTIO Permit P0094783

52. After providing an opportunity for public comment, Ohio Environmental Protection Agency (Ohio EPA) issued a Federally Enforceable Permit to Install and Operate, P0094783, to Chemical Solvents on August 16, 2011 (the FEPTIO Permit).

53. Part C of the FEPTIO Permit lists various requirements that apply to the Emission Units that are located at the physical addresses 1010 Old Denison Avenue, Cleveland, Ohio 44109 and 3751 Jennings Road, Cleveland, Ohio 44109 (the Facility).

54. Part C.1 of the FEPTIO Permit lists various requirements that apply to Emission Units J001 – Solvent loading rack at Denison with a Vapor Recovery System, and J002 – Solvent loading rack at Jennings with a Vapor Recovery System.

55. Part C.1.b)(2)d of the FEPTIO Permit requires all of the VOC emissions from units J001 and J002 to be vented to a vapor recovery system (refrigerated chiller) that meets the operational, monitoring, and record keeping requirements of the FEPTIO Permit, when J001 or J002 or both are in operation. The overall control efficiency for VOC emissions from the vapor recovery system must be greater than 90 percent, by weight.

56. With respect to J001 and J002, Part C.1.d)(4) of the FEPTIO Permit requires Chemical Solvents to collect and record the following information each day: (i) the average temperature of the cooling liquid in the vapor recovery system during each of the eight 3-hour blocks of time during the day; and (ii) a log or record of operating time for the capture (collection) system, control device, monitoring equipment, and the associated emission unit.

57. Part C.3 of the FEPTIO Permit lists various requirements that apply to Emission Units P001 – LUWA I, thin film evaporation unit (hot oil) for spent solvents, including double condensers with chilled water, and P002 – LUWA II, thin film evaporation unit (steam) for spent solvents, including double condensers with chilled water.

58. With respect to P001 and P002, Part C.3.b)(1)a of the FEPTIO Permit provides that "OC [organic compound] emissions shall not exceed 3.0 lbs/hr combined total for P001 and P002."

59. With respect to P001 and P002, Part C.3.b)(1)b of the FEPTIO Permit provides that "OC emissions shall not exceed 40 lbs/day for each emissions unit or the permittee shall achieve an overall reduction of 85%, by weight, of the OCs for each emissions unit."

60. Part C.3.b)(1)d of the FEPTIO Permit provides that, in order to avoid the application of Title V of the Act, the emissions from P001 and P002 must not exceed 3.1 tons of single and combined HAP per rolling, 12-month summation, which assumes all VOC is HAP.

61. With respect to P001 and P002, Part C.3.b)(2)c of the FEPTIO Permit requires all VOC emissions to be vented to a vapor recovery system that must meet the operational, monitoring, and record keeping requirements of the FEPTIO Permit, when one or more of the emissions units are in operation. Under Part 3.b)(2)c of the FEPTIO Permit, the overall control efficiency for VOC emissions must be greater than 90 percent, by weight.

62. With respect to P001 and P002, Part C.3.d)(3) of the FEPTIO Permit requires Chemical Solvents to collect and record the following information each day: (i) the average

temperature of the cooling liquid in the vapor recovery system during each of the eight 3-hour blocks of time during the day; and (ii) a log or record of operating time for the capture (collection) system, control device, monitoring equipment, and the associated emission unit.

63. With respect to J001, J002, P001 and P002, Part C.1.d)(5) and Part C.3.d)(4) of the FEPTIO Permit require Chemical Solvents to perform daily visual inspections and quarterly monitoring of all pumps seals, pipeline valves in liquid service and process drains in accordance with the method outlined in OAC 3745-21-10(F). OAC 3745-21-10(F) provides that the detection of leaks shall be determined in accordance with the test procedure set forth in Method 21, 40 C.F.R. Part 60, Appendix A. OAC 3745-21-10(F) was approved by EPA as part of the federally enforceable SIP for Ohio on May 9, 1994. 59 Fed. Reg. 23796.

Title V Permitting Requirements

64. Title V of the Act, 42 U.S.C. §§ 7661 through 7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including "major sources," and other sources made subject under Section 502(a) of the Act, 42 U.S.C. § 766la(a). The purpose of Title V is to establish a national permit program to ensure compliance with all applicable requirements of the Act.

65. Pursuant to 40 C.F.R. § 70.1(b), all sources subject to the Title V operating permit program, including "major sources," shall have a permit to operate that assures compliance by the source with "all applicable requirements."

66. Section 112(a)(1) of the Act, 42 USC § 7412(a)(1), and 40 C.F.R. § 70.2 define "major stationary source" as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any HAP which has been listed pursuant to section 112(b) of the Act, 25 tpy or more of any combination of such HAPs, or such lesser quantity as the Administrator may establish by rule.

67. Pursuant to Section 503 of the Act, 42 U.S.C. § 7661b, and 40 C.F.R. § 70.5(a), every owner or operator of a Part 70 source is required to timely submit an accurate and complete Title V permit application, including information required to be submitted with the application.

68. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) state that no Part 70 source may operate after the time it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a Part 70 program. 40 C.F.R. § 70.3 provides that the requirements of 40 C.F.R. Part 70 apply to any "major source" located in a state that has received whole or partial approval of its Title V program.

## Findings

69. Chemical Solvents owns and operates an off-site waste and recovery operation permitted at 3751 Jennings Road, Cleveland, Ohio and 1010 Old Denison Road, Cleveland, Ohio.

70. The Facility is located in Cuyahoga County, Ohio, which is currently in marginal non-attainment for the 2008 8-hour ozone standard. VOCs are a precursor for ozone formation.

71. The Facility is a "plant site" as defined in 40 C.F.R. § 63.681.

72. The FEPTIO Permit includes terms and conditions designed to limit HAP and VOC emissions below Title V thresholds. These terms and conditions are federally enforceable pursuant to OAC 3745-31-05(D) and 3745-35-07(B) of the Ohio SIP.

73. EPA Region 5 and EPA National Enforcement Investigation Center inspectors conducted an inspection of the Facility from June 25, 2012 through June 27, 2012.

74. During the inspection, EPA observed a pipe discharging fluid from P002's vacuum pump into a collection sump. EPA representatives recorded a 20,000 ppm reading from the collection sump and vacuum pump discharge pipe using a Thermo TVA, and observed visible hydrocarbons being emitted from the sump using a FLIR GF 320 camera.

75. During the inspection, EPA inspectors noted that emissions from J001 were controlled by a vapor balance system, not a vapor recovery system, which is the permitted control device under Part C.1.b)(2)d of FEPTIO Permit.

76. During the inspection, EPA inspectors noted that Chemical Solvents does not operate and maintain a continuous temperature monitor and electronic record which measures and records the temperature of the cooling liquid in the vapor recovery system when J001, J002, P001, and P002 were in operation.

77. During the inspection, EPA inspectors noted that Chemical Solvents does not collect and record the following each day: the average temperature of cooling liquid in the vapor recovery system during each of the eight 3-hour blocks of time during the day; and a log or record of operating time for the capture (collection) system, control device, monitoring equipment, and the associated emission unit.

78. During the inspection, EPA inspectors noted that Chemical Solvents failed to monitor its condenser control device using either a continuous parameter monitoring system to record the daily average temperature of the exhaust gases from the control device, a continuous monitoring system to measure and record the daily average concentration level of organic compounds in the exhaust gas stream from the control device, or a continuous monitoring system that measures other alternative operating parameters approved by the Administrator.

79. During their inspection, EPA discovered the following leaks:

| Denison | | |
|---|---|---|
| **Source Location** | **Source Type** | **Concentration** |
| Tank F1 | opened bung | 20,000 ppm |
| Tank F1 | conservation vent | 4,000 ppm |
| Tank F2 | opened bung | 4,300 ppm |
| Tank F2 | conservation vent | 20,000 ppm |
| Tank F2 | agitator | 50,000 ppm |
| Tank F21 | open hatch | 24,000 ppm |
| Tank F22 | unbolted hatch | 7,700 ppm |
| Tank F23 | unbolted hatch | Flame-out |
| Tank F23 | agitator | 34,000 ppm |
| Tank F23 | conservation vent | 5,000 ppm |
| Tank W101 | conservation vent | 5,800 ppm |
| Tank W102 | conservation vent | 1800 ppm |
| Tank W103 | conservation vent | 26,000 ppm |
| Tank W105 | conservation vent | 8,500 ppm |
| Tank W107 | conservation vent | 45,000 ppm |
| Tank W107 | closed-vent system conservation vent | 2,200 ppm |
| Tank W108 | conservation vent | 9,000 ppm |
| Tank W109 | conservation vent | 20, 000 ppm |
| Tank W109 | closed-vent system conservation vent | 4,000 ppm |
| Tank P3 | thief hatch | flame out |
| Tank P4 | thief hatch | 15,000 ppm |
| Tank P5 | thief hatch | 70,000ppm/ flame out |
| Tank P5 | connector | > 10,000 ppm |
| Tank P6 | thief hatch | > 10,000 ppm |
| Tank P8 | thief hatch | flame out |
| Tank P8 | connector | 2,080 ppm |
| Tank P10 | thief hatch | 40,000 ppm |
| Tank P11 | manway on bottom | 618 ppm |
| Tank P12 | manway on bottom | 1,300 ppm |
| Tank P13 | thief hatch | 15,000 ppm |
| Tank P14 | manway on bottom | 6,700 ppm |
| Tank P14 | thief hatch | 50,000 ppm/ flame out |
| Tank P25 | bottom connector | 7,800 ppm |

| | | |
|---|---|---|
| Tank P26 | thief hatch | 7,000 ppm |
| Tank P28 | thief hatch | 80,000 ppm |
| Collection Sump | outside LUWA building | 20,000 ppm |
| Jennings | | |
| **Source Location** | **Source Type** | **Concentration** |
| Tank 1 | thief hatch | 2,000 ppm |
| Tank 3 | thief hatch | 2,000 ppm |
| Tank 16 | bottom connector | 1,600 ppm |
| Tank 13 | bottom connector | 1,150 ppm |
| Tank 12 | bottom connector | 670 ppm |
| Tank P7 | thief hatch | 650 ppm |
| Tank P10 | gauge | flame out |
| Tank P14 | vent | 20,000 ppm |

80. Chemical Solvents submitted sampling results from tests conducted on June 13, 2012 to EPA from the liquid stream of P002's vacuum pump. The results from these two samples contained 16,300 and 26,100 milligrams per liter of methanol, respectively, which is a HAP and a VOC.

81. Emissions from J001 and J002 were or are subject to OAC 3745-31-05(D) and OAC 3745-35-07(B) of the Ohio SIP.

82. Emissions from P001 and P002 are subject to OAC 3745-21-07(G)(2) of the Ohio SIP.

83. Emissions from P001 and P002 were or are subject to OAC 3745-31-05(D) and OAC 3745-35-07(B) of the Ohio SIP.

84. Chemical Solvents receives off-site material and its operation is regulated as a hazardous waste treatment, storage, and disposal facility under either 40 C.F.R. Part 264 or 265. Additionally, the off-site material is a waste, used oil, or used solvent not produced or generated within the plant site and contains one or more of the HAPs listed in Table 1 of 40 C.F.R. Part 63, Subpart DD.

85. Based on monitoring and sampling data cited above, Chemical Solvents is and has been a major source of HAPs and VOCs.

86. Based on monitoring and sampling data cited above, Chemical Solvents owns and operates an off-site waste and recovery operation as defined at 40 C.F.R § 63.681 and is therefore subject to 40 C.F.R. Part 63, Subpart DD.

87. Chemical Solvents neither destroys HAP in off-site material before placing it into the off-site material management unit nor does it process only off-site material with less than 500

ppm VOHAP concentration. Consequently, Chemical Solvents must comply with 40 C.F.R. § 63.683(b)(1)(i).

88. Chemical Solvents operates or is required to operate a vapor recovery system, or condenser control device, that is permitted to achieve a 90 percent control efficiency, and is required to control J001, J002, P001, and P002. According to Chemical Solvent representatives, however, the condenser control device efficiency has never been tested.

89. P001 and P002, and the discharge pipe from the vacuum pump, are considered process vents, as defined at 40 C.F.R § 63.681, and collectively are an affected source, as defined at 40 C.F.R § 63.680(c)(2).

90. The collection sump, containing the liquid from the discharge pipe from the vacuum pump, is an individual drain system and transfer system, as defined at 40 C.F.R. § 63.681. Therefore, the collection sump is an affected source, as defined at 40 C.F.R. § 63.680(c)(1).

**Violations**

91. All VOC emissions from J001 and J002 are not routed to a vapor recovery system, in violation of Part C.1.b)(2)d of the FEPTIO Permit, OAC 3745-31-05(D), and OAC 3745-35-07(B).

92. Chemical Solvents has failed to perform monitoring on J001 and J002, in violation of Part C.1.d)(4) of the FEPTIO Permit and OAC 3745-21-10(F).

93. According to above referenced sampling and monitoring data, emissions from the P001 and P002 were in excess of 3.0 pounds per hour, 40 pounds per day, and 3.1 tons per year, and were uncontrolled, in violation of Parts C.3.b)(1)a, C.3.b)(1)b, and C.3.b)(1)d of the FEPTIO Permit, OAC 3745-21-07(G)(2), OAC 3745-31-05(A)(3), OAC 3745-31-05(D), and OAC 3745-35-07(B).

94. With respect to J001, J002, P001, and P002, Chemical Solvents has failed to perform daily visual inspections and quarterly monitoring of all pumps seals, pipeline valves in liquid service, and process drains in accordance with the method outlined in OAC 3745-21-10(F), in violation of Part C.1.d)(5) and Part C.3.d)(4) of the FEPTIO Permit.

95. All VOC emissions from P001 and P002 were not vented to a vapor recovery system, in violation of Part C.3.b)(2)c of the FEPTIO Permit, OAC 3745-21-07(G)(2), OAC 3745-31-05(D), and OAC 3745-35-07(B).

96. Chemical Solvents has failed to record the average temperature of the cooling liquid in the vapor recovery system during each of the eight 3-hour blocks of time during each day and to log the operating time of the condenser control device, in violation of Parts C.1.d)(4) and C.3.d)(3) of the FEPTIO Permit, OAC 3745-31-05(D), and OAC 3745-35-07(B).

97. Chemical Solvents emitted gases as referenced in paragraph 79 in such manner or in such amounts as to endanger the health, safety or welfare of the public, in violation of OAC 3745-15-07(A).

98. Chemical Solvents has failed to submit timely and complete Title V permit applications with information concerning all applicable requirements, including, but not limited to, the collection sump emission source and the Facility's major source status for HAPs and VOCs. Chemical Solvents also failed to supplement or correct its Title V permit applications for the Facility in violation of Sections 502, 503, and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b, and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b); and OAC 3745-35-02.

99. Chemical Solvents has failed to comply with the provisions of 40 C.F.R Part 63, Subpart DD, in violation of 40 C.F.R § 63.680(a) and Section 112 of the Act, 42 U.S.C. § 7412.

100. Chemical Solvents has failed to control air emissions from process vents, including but not limited to the above referenced vacuum pump discharge pipe, P001, and P002, in accordance with the standards specified in 40 C.F.R § 63.690, in violation of 40 C.F.R § 63.683(c)(1).

101. Chemical Solvents has failed to control equipment leaks from each equipment component that is part of the affected source specified in 40 C.F.R. § 63.680(c)(3), including but not limited to the equipment components in paragraph 79, by implementing leak detection and control measures in accordance with the standards specified in 40 C.F.R. § 63.691, in violation of 40 C.F.R § 63.683(d).

102. Chemical Solvents has failed to control air emissions from each tank at its facility used to manage off-site material, including but not limited to the tanks specified in paragraph 79, in accordance with the requirements listed in 40 C.F.R. § 63.685, in violation of 40 C.F.R § 63.683(b)(1)(i) and § 63.685(b).

103. Chemical Solvents has failed to control air emissions from each container used to manage off-site material in accordance with 40 C.F.R § 63.688, in violation of 40 C.F.R § 63.683(b)(1)(i) and § 63.688.

104. Chemical Solvents has failed to control air emissions from each transfer system used to manage off-site material that is an individual drain system in accordance with 40 C.F.R. Part 63, Subpart RR—National Emission Standards for Individual Drain Systems, and is not an individual drain system, using one of the transfer systems specified in 40 C.F.R § 63.689(c)(1) through (c)(3), in violation of 40 C.F.R § 63.689.

105. Chemical Solvents has failed to control air emissions from each process vent used to manage off-site material, including the vacuum pump discharge pipe, P001, and P002, by routing the vent stream through a closed-vent system to a control device that meets the standards specified in 40 C.F.R. §63.693, in violation of 40 C.F.R § 63.690.

106. Chemical Solvents has failed to control air emissions from equipment leaks for all pumps, compressors, agitators, pressure relief devices, sampling connection systems, open-ended valves or lines, valves, connectors, or instrumentation systems that contain off-site material having a total HAP concentration equal to or greater than 10 percent by weight and are intended to operate for 300 hours or more during a calendar year in accordance with either 40 C.F.R. §§ 61.242 through 61.247 in 40 C.F.R. Part 61, Subpart V—National Emission Standards for Equipment Leaks or 40 C.F.R. §§ 63.162 through 63.182 in Subpart H—National Emission Standards for Organic Hazardous Air Pollutants from Equipment Leaks, in violation of 40 C.F.R § 63.691.

107. Chemical Solvents has failed to control air emissions from each closed-vent system that is designed to operate with no detectable organic emissions or is designed to operate at a pressure below atmospheric pressure, in violation of 40 C.F.R § 63.693(c).

108. Chemical Solvents has failed to operate its condenser control device, part of the Facility's vapor recovery system, so that the condenser recovers 95 percent or more, on a weight-basis, of the total organic compounds (TOC) or total HAP, contained in the vent stream entering the condenser, in violation of 40 C.F.R § 63.693(e)(1).

109. Chemical Solvents has failed to demonstrate that that the condenser control device achieves 95 percent removal of TOC or HAP through either a performance test conducted in accordance with the requirements of 40 C.F.R. § 63.694(l) or by using design analysis utilizing the following information: description of the vent stream composition, constituent concentrations, flow rate, relative humidity, and temperature; and specification of the design outlet organic compound concentration level, design average temperature of the condenser exhaust vent stream, and the design average temperatures of the coolant fluid at the condenser inlet and outlet, in violation of 40 C.F.R § 63.693(e)(2).

110. Chemical Solvents has failed to monitor its condenser control device in accordance with the requirements of 40 C.F.R. § 63.695(e) using either a continuous parameter monitoring system to record the daily average temperature of the exhaust gases from the control device, a continuous monitoring system to measure and record the daily average concentration level of organic compounds in the exhaust gas stream from the control device, or a continuous monitoring system that measures other alternative operating parameters upon approval of the Administrator, in violation of 40 C.F.R § 63.693(e)(3).

111. Chemical Solvents has failed to perform the inspection and monitoring procedures listed in 40 C.F.R § 63.695(a)(1) through (3), in violation of 40 C.F.R § 63.695(a).

112. Chemical Solvents has failed to comply with the recordkeeping requirements in 40 C.F.R § 63.10 under 40 C.F.R. Part 63 Subpart A—General Provisions that are applicable to Subpart DD as specified in Table 2 of Subpart DD, in violation of 40 C.F.R § 63.696(a).

113. Chemical Solvents has failed to maintain records of the condenser control device as specified in 40 C.F.R. § 63.10, in violation of 40 C.F.R § 63.696(b).

114. Chemical Solvents has failed to maintain records for each tank inspection required by 40 C.F.R. §63.695(b), as applicable to the tank, that includes a tank identification

number, the date of inspection, each defect detected, the location of the defect, a description of the defect, the date of detection, and corrective action taken to repair the defect, in violation of 40 C.F.R § 63.696(e).

115. Chemical Solvents has failed to submit notices and reports to the Administrator in accordance with the applicable notification and reporting requirements in 40 C.F.R. §§ 63.9 and 63.10 as specified in Table 2 of 40 C.F.R. 63, Subpart DD, in violation of 40 C.F.R § 63.697(a).

116. Chemical Solvents has failed to submit the following notifications and reports to the Administrator for its condenser control device, in violation of 40 C.F.R. § 63.697(b): (1) a notification of performance tests specified in 40 C.F.R. §§ 63.7 and 63.9(g); (2) performance test reports specified in 40 C.F.R. § 63.10(d)(2); (3) startup, shutdown, and malfunction reports specified in 40 C.F.R. § 63.10(d)(5); and (4) a summary report specified in 40 C.F.R. § 63.10(e)(3), submitted on a semiannual basis.

**Environmental Impact of Violations**

117. Chemical Solvents' above-referenced violations have caused, will cause excess emissions of HAP and VOC.

118. Excess HAP emissions can cause serious health effects, such as birth defects and cancer, and harmful environmental and ecological effects.

119. Excess VOC emissions can cause eye, nose, and throat irritation; headaches, loss of coordination, nausea; damage to liver, kidney, and central nervous system. Some organics can cause cancer in animals and some are suspected or known to cause cancer in humans.

120. VOC emissions are a precursor to ground-level ozone. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

9/28/12

Date

George T. Czerniak
Acting Director
Air and Radiation Division

## CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-12-OH-22, by Certified Mail, Return Receipt Requested, to:

Mr. Jerry Schill
Chemical Solvents, Inc.
3751 Jennings Road
Cleveland, OH 44109

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

Bob Hodanbosi
Chief, Division of Air Pollution Control
Ohio Environmental Protection Agency
1800 WaterMark Drive
Columbus, Ohio 43266-1049

On the 1 day of October 2012.

Loretta Shaffer
Administrative Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7667 6366