



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

SEP 10 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joe Urban
Environmental, Health and Safety Manager
Rust-Oleum Corporation
8105 Fergusson Drive
Pleasant Prairie, Wisconsin 53158

Dear Mr. Urban:

The U.S. Environmental Protection Agency has determined that Rust-Oleum Corporation (Rust-Oleum) is in violation of the Clean Air Act (the Act or CAA) and associated state or local pollution control requirements at its facility at 8105 Fergusson Drive, Pleasant Prairie, Wisconsin. A list of the requirements violated is provided below. We are today issuing to you the enclosed Notice of Violation and Finding of Violation (NOV/FOV) for these alleged violations.

EPA finds that Rust-Oleum has violated the federally-enforceable Registration Operating Permit issued to the facility by the Wisconsin Department of Natural Resources, as well as the Wisconsin SIP. Violations of the Wisconsin SIP constitute violations of Title I of the CAA and its implementing regulations. Additionally, EPA finds that Rust-Oleum has violated the National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

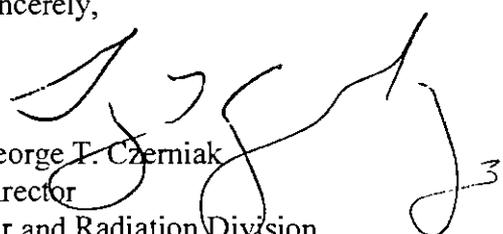
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

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 of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's 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 contacts in this matter are Virginia Galinsky, Environmental Engineer, and Gary Steinbauer, Associate Regional Counsel. You may call them at (312) 353-2089 and (312) 886-4306, respectively, if you wish to request a conference. You should make the request for 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. EPA hopes that this NOV/FOV will encourage Rust-Oleum's compliance with the requirements of the Act.

Sincerely,


George T. Czerniak
Director
Air and Radiation Division

cc: Bill Baumann
Chief
Compliance Enforcement and Emission Inventory Section
Bureau of Air Management
Wisconsin Department of Natural Resources

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Rust-Oleum)	NOTICE OF VIOLATION and
Pleasant Prairie, Wisconsin)	FINDING OF VIOLATION
)	
)	EPA-5-14-WI-08
Proceedings Pursuant to)	
the Clean Air Act)	
42 U.S.C. §§ 7401-)	

NOTICE AND FINDING OF VIOLATION

Rust-Oleum Corporation (you or Rust-Oleum) owns and operates a paint manufacturing facility at 8105 Fergusson Drive, Pleasant Prairie, Wisconsin (facility). Operations at the facility include mixing tanks, thindown tanks, storage tanks, and fill lines. Air emission control equipment for these operations include hoods and a regenerative thermal oxidizer.

The U.S. Environmental Protection Agency is sending this Notice of Violation and Finding of Violation (NOV/FOV or Notice) because you have failed to comply with the requirements of a federally-enforceable state operating permit, the State Implementation Plan, and the requirements under the National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing.

Clean Air Act

1. Section 110 of the Clean Air Act (CAA or Act), 42 U.S.C. § 7410, requires states to submit State Implementation Plans (SIPs) to EPA which provide for implementation, maintenance, and enforcement of the primary and secondary National Ambient Air Quality Standards (NAAQS) established by EPA under Title I of the Act.
2. Section 112(b) of the Act, 42 U.S.C. § 7412(b) lists 188 Hazardous Air Pollutants (HAPs) that cause adverse health or environmental effects.
3. Section 112(d)(1) of the Act, 42 U.S.C. § 7412(d), requires EPA to promulgate regulations establishing emissions standards for each category or subcategory of major and area sources of HAPs that are listed for regulation pursuant to Section 112(c), 42 U.S.C. § 7412(c).
4. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), and 40 C.F.R. § 52.23, authorize the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a SIP provision, any permit limitation or condition contained within an operating permit issued under a SIP, and section 112 of the Act.

Wisconsin State Implementation Plan

5. On January 18, 1995, EPA approved Wisconsin's Federally Enforceable State Operating Permits (FESOP) program as part of the Wisconsin SIP. 60 Fed. Reg. 3538.
6. On February 6, 2006, EPA approved Wisconsin's Registration Permit program, to exempt facilities with low annual emissions from the FESOP program, as part of the Wisconsin SIP. 71 Fed. Reg. 5979. The Registration Permit program became effective on March 8, 2006.
7. Wisconsin's Registration Permits are provided for in the Wisconsin Statutes at 10 Wis. Stats. § 285.60(2g), with implementing regulations found at Wisconsin Administrative Code (Wis. Admin. Code) NR § 407.
8. According to Wis. Admin. Code NR § 407.105(2)(a)1., a Registration Permit is appropriate for facilities whose calendar year sum of actual emissions of each air contaminant do not exceed 25% of any major source threshold in Wis. Admin. Code NR § 407.02(4).
9. The major stationary source thresholds are 100 tons per year (tpy) for particulate matter (PM), volatile organic compounds (VOCs), nitrogen oxides (NO_x), sulfur dioxide (SO₂), and carbon monoxide (CO). Wis. Admin. Code NR § 407.02(4); 40 C.F.R. § 51.21(b)(1)(i)(a); 40 C.F.R. § 70.2.
10. On February 25, 1994, EPA approved revisions to the Wisconsin SIP for ozone. These revisions included the approval of Wis. Admin. Code NR § 424 into the Wisconsin SIP. 59 Fed. Reg. 9158.
11. Wis. Adm. Code NR § 424.03 applies to all process lines which emit organic compounds, solvents or mixtures located within the Southeastern Wisconsin Air Quality Control Region, except organic compound-water separation systems that process 200 gallons per day or less, enclosed paint spraying operations from which VOC emissions are never greater than 30 pounds in any day, and all other process lines from which VOC emissions are never greater than 15 pounds in any day and 3.1 pounds in any hour.
12. Wis. Adm. Code NR § 424.03(2) provides that process lines on which construction or modification commenced on or after August 1, 1979 and which are not subject to emission limitations listed elsewhere in Wis. Admin. Code NR § 419 or § 423 shall control VOC emissions by at least 85%, unless 85% control has been demonstrated to be technologically infeasible for a specific process line.

NESHAP for Area Sources: CCCCCC

13. EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Area Sources: Paints and Allied Products Manufacturing (NESHAP Subpart CCCCCC) on December 3, 2009. 74 Fed. Reg. 63504. The subpart is codified at 40 C.F.R. §§ 63.11599 – 60.11618.
14. 40 C.F.R. § 63.11599(a) provides that “[y]ou are subject to this subpart if you own or operate a facility that performs paints and allied products manufacturing that is an area

source of hazardous air pollutant (HAP) emissions and processes, uses, or generates materials containing HAP, as defined in §63.11607.”

15. 40 C.F.R. § 63.11599(b) provides that the “affected source” consists of “all paints and allied products manufacturing processes that process, use, or generate materials containing HAP at the facility.” An affected source is existing if it commenced construction or reconstruction before June 1, 2009.

16. 40 C.F.R. § 63.11607 defines “paints and allied products manufacturing” as “the production of paints and allied products, the intended use of which is to leave a dried film of solid material on a substrate. Typically, the manufacturing processes that produce these materials are described by Standard Industry Classification (SIC) codes 285 or 289 and North American Industry Classification System (NAICS) codes 3255 and 3259 and are produced by physical means, such as blending and mixing, as opposed to chemical synthesis means, such as reactions and distillation. Paints and allied products manufacturing does not include: (1) The manufacture of products that do not leave a dried film of solid material on the substrate, such as thinners, paint removers, brush cleaners, and mold release agents; (2) The manufacture of electroplated and electroless metal films; (3) The manufacture of raw materials, such as resins, pigments, and solvents used in the production of paints and coatings; and (4) Activities by end users of paints or allied products to ready those materials for application.”

17. 40 C.F.R. § 63.11607 defines “paints and allied products” as “materials such as paints, inks, adhesives, stains, varnishes, shellacs, putties, sealers, caulks, and other coatings from raw materials that are intended to be applied to a substrate and consists of a mixture of resins, pigments, solvents, and/or other additives.”

18. 40 C.F.R. § 63.11607 defines “material containing HAP” as “material containing benzene, methylene chloride, or compounds of cadmium, chromium, lead, and/or nickel, in amounts greater than or equal to 0.1 percent by weight for carcinogens, as defined by the Occupational Safety and Health Administration at 29 CFR 1910.1200(d)(4), or 1.0 percent by weight for non-carcinogens, as shown in formulation data provided by the manufacturer or supplier, such as the Material Safety Data Sheet for the material. Benzene and methylene chloride are volatile HAP. Compounds of cadmium, chromium, lead and/or nickel are metal HAP.”

19. 40 C.F.R. § 63.11603(a)(1) requires owners and operators of existing affected facilities to submit an Initial Notification of Applicability no later than June 1, 2010.

20. 40 C.F.R. § 63.11603(a)(2), requires owners and operators of existing affected facilities to submit a Notification of Compliance Status no later than June 3, 2013.

21. NESHAP Subpart CCCCCC requires owners and operators of affected sources to comply with certain emission control standards (40 C.F.R. § 63.11601), conduct certain inspections and monitoring activities (40 C.F.R. § 63.11602), and create an annual compliance certification and keep certain records (40 C.F.R. § 63.11603(b)-(c)).

Factual Background

22. Rust-Oleum owns and operates a paint manufacturing facility at 8105 Fergusson Drive, Pleasant Prairie, Wisconsin (facility). The NAICS Code for its facility is 325510. Emission units at the facility include storage tanks, mixing tanks, thindown tanks and four paint fill lines. Rust-Oleum uses hoods and a regenerative thermal oxidizer (RTO) to control emissions from paint lines 1-3 and a total enclosure and the same RTO to control emissions from paint line 4.

23. Effective July 20, 2012, part of Kenosha County, including Pleasant Prairie, was designated marginal nonattainment for the 2008 8-hour ozone NAAQS. 77 Fed. Reg. 34221.

24. On October 26, 2009, Rust-Oleum applied for a Type A Registration Operation Permit (ROP) and Type A Registration Construction Permit (RCP). WDNR issued Rust-Oleum ROP/RCP # 23072040-ROPA on November 25, 2009.

25. Condition A.1 of the ROP/RCP requires Rust-Oleum to limit its annual actual emission of PM, VOCs, NO_x, SO₂, CO, and federally regulated hazardous air pollutants to less than 25% of any major source threshold set forth in Wis. Adm. Code § NR 407.02(4), on a calendar year basis.

26. For VOCs, 25% of the major source threshold in a moderate or marginal nonattainment area for the 2008 8-hour ozone NAAQS is 25 tons per year. Wis. Adm. Code NR § 407.02(4)

27. Condition A.3 of the ROP/RCP requires Rust-Oleum to comply with Wis. Admin. Code NR § 424.03 as applicable.

28. Condition D.3 of the ROP/RCP requires Rust-Oleum to meet, at a minimum, the control efficiency listed in Section G of the ROP/RCP or the specific control efficiency required in the ROP/RCP.

29. Section G of the ROP/RCP requires sources using a thermal oxidizer with a hood to capture emissions to achieve a VOC control efficiency of at least 76%. Sources using a thermal oxidizer with a total enclosure are required to achieve a VOC control efficiency of at least 95%.

30. On February 11, 2014, EPA conducted an on-site inspection at Rust-Oleum's facility. During the inspection, Rust-Oleum's environmental manager told EPA that the air flow to the RTO was about 9,000 to 10,000 standard cubic feet per minute before the installation of paint fill line 4. Based on engineering calculations, the same environmental manager stated that air flow to the RTO since the installation of paint fill line 4 should be about 14,000 to 15,000 cubic feet per minute.

31. A performance test was conducted on the RTO on April 17, 2014. During this test, the air flow was measured to be 10,187 dry standard cubic feet per minute as an average over the three one-hour test runs.

32. Engineering calculations that Rust-Oleum conducted before the addition of Line 4 to the RTO system estimated the capture efficiency of the hoods on lines 1-3 to be 86.8%. Based on Rust-Oleum's stated engineering calculations of air flow to the RTO and existing capture efficiency of the system, in conjunction with the air flow data gathered during the April 2014 performance test, the addition of Line 4 caused Rust-Oleum's overall capture efficiency to decrease to approximately 66.3%.

33. Rust-Oleum collected samples to estimate the capture efficiency of its system on February 20, 2014. These samples were not collected pursuant to an approved method, but EPA's review of the method indicates that it is likely to produce reasonable results. This testing determined the capture efficiency of the paint fills lines to be 8% for line 1, 21% for line 2, 54% for Line 3, and 92% for line 4. According to this testing, the capture efficiency of the gashouses was 7% for line 1, 43% for line 3, and 52% for line 4. The capture efficiency of the gashouse for line 2 was not determined.

34. At the facility, Rust-Oleum uses the following materials that contain compounds of cadmium, or nickel in amounts greater than 0.1 percent by weight, as shown on the Material Safety Data Sheet for the material:

- a. StaySteel: 16–18% chromium and 10–14% nickel
- b. Chromaflair: 1.0–10.0% chromium
- c. Chromium oxide green: greater than 98% chromic (III) oxide
- d. Siscotan yellow: 95–99% chromium

35. Rust-Oleum is an affected facility pursuant to NESHAP Subpart CCCCCC because it is a paint and allied products manufacturing facility that processes, uses, or generates materials containing HAPs.

36. As of the date of this Notice, Rust-Oleum has not submitted an Initial Notification of Applicability or an Initial Notification of Compliance Status under NESHAP Subpart CCCCCC.

Violations

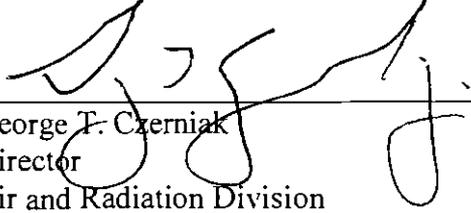
37. Based on the available information, EPA believes that Rust-Oleum is not achieving 85% control of VOCs at its process lines, in violation of Wis. Admin. Code NR § 424.03(2) and Condition A.3. of the ROP/RCP.

38. Based on the available information, EPA believes that Rust-Oleum is not achieving the control efficiencies required by Condition D.3. of the ROP/RCP.

39. By failing to submit an Initial Notification of Applicability or an Initial Notification of Compliance Status, EPA believes Rust-Oleum has violated 40 C.F.R. §§ 63.11603(a)(1) and (a)(2).

Date

9/10/14


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-14-WI-08, by Certified Mail, Return Receipt Requested, to:

Joe Urban
Environmental, Health and Safety Manager
Rust-Oleum Corporation
8105 Fergusson Drive
Pleasant Prairie, WI 53158

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

Bill Baumann
Chief
Compliance Enforcement and Emission Inventory Section
Bureau of Air Management
Wisconsin Department of Natural Resources
101 S. Webster St.
PO Box 7921 (AM/7)
Madison, Wisconsin 53702

On the 11 day of September 2014.

CERTIFIED MAIL RECEIPT NUMBER:

Loretta Shaffer

7011 1150 0000 2639 3427

Loretta Shaffer, Administrative Program Assistant
Planning and Administration Section