



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

DEC 23 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Stanley A. Muehlenkamp
President
Paragon Metal Fabricators
4317 Kugler Mill Road
Cincinnati, Ohio 45236

Re: Notice and Finding of Violation
Paragon Metal Fabricators
Cincinnati, Ohio

Dear Mr. Muehlenkamp:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Paragon Metal Fabricators (Paragon or you) for violations of Section 112 of the Clean Air Act (CAA), 42 U.S.C. § 7412, at your Cincinnati, Ohio facility. Specifically, we find that you are in violation of the applicable regulations at 40 C.F.R. Part 63, Subpart XXXXXX, the National Emission Standards for Hazardous Air Pollutants Area Source Standards for Nine Metal Fabrication and Finishing Source Categories, 40 C.F.R. §§ 63.11514 through 63.11523, and the Ohio State Implementation Plan.

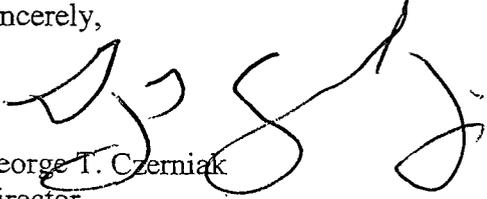
Section 113(a)(1) and (3) of the CAA, 42 U.S.C. § 7413(a)(1) and (3), give EPA several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

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 Shilpa Patel and Chad McEvoy. You may call them at (312) 886-0120 or (312) 886-6084, respectively, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, OEPA
Brad Miller, Southwest Ohio Air Quality Agency

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-16-OH-02, by Certified Mail, Return Receipt Requested, to:

Stanley A. Muehlenkamp
President
Paragon Metal Fabricators
4317 Kugler Mill Road
Cincinnati, Ohio 45236

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

Robert Hodanbosi
Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

Brad Miller
Southwest Ohio Air Quality Agency
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219

On the 29 day of December 2015.



Kathy Jones
Administrative Program Assistant
AECAB, Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7014 2870 0001 9581 4070

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	NOTICE AND FINDING
Paragon Metal Fabricators)	OF VIOLATION
Cincinnati, Ohio)	
)	EPA-5-16-OH-02
Proceedings Pursuant to)	
Section 113(a)(1) and (3) of the)	
Clean Air Act, 42 U.S.C.)	
§ 7413(a)(1) and (3))	

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice and Finding of Violation (NOV/FOV) to Paragon Metal Fabricators (Paragon) for violations of the Clean Air Act (the CAA), 42 U.S.C. § 7401 *et seq.*, at its facility located at 4317 Kugler Mill Road, Cincinnati, Ohio (Facility). Specifically, Paragon violated Sections 110 and 112 of the CAA, 42 U.S.C. §§ 7410 and 7412, the National Emission Standards for Hazardous Air Pollutants (NESHAP) Area Source Standards for Nine Metal Fabrication and Finishing Source Categories at 40 C.F.R. Part 63, Subpart XXXXXX, 40 C.F.R. §§ 63.11514 - 63.11523 (Subpart XXXXXX), and the Ohio State Implementation Plan (SIP).

This NOV/FOV is issued pursuant to Section 113(a)(1) and (3) of the CAA, 42 U.S.C. § 7413(a)(1) and (3). The authority to issue this NOV/FOV has been delegated to the Director, Air and Radiation Division, Region 5.

REGULATORY AUTHORITY

National Emission Standards for Hazardous Air Pollutants

1. Pursuant to Section 112(b) of the CAA, 42 U.S.C. § 7412(b), EPA designates hazardous air pollutants (HAP) which present or may present a threat of adverse effects to human health or the environment.
2. Section 112(c) and (d) of the CAA, 42 U.S.C. § 7412(c) and (d), requires EPA to publish a list of categories of sources which EPA finds present a threat of adverse effects to human health or the environment due to emissions of HAP, and to promulgate emission standards for each source category. These standards are known as “national emission standards for hazardous air pollutants” (NESHAP). EPA codifies these requirements at 40 C.F.R. Part 63.

3. The NESHAPs are national technology-based performance standards for HAP sources in each category that become effective on a specified date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAP that EPA determines is achievable for each source category.
4. Section 112(d) of the CAA requires EPA to establish NESHAPs for both major and area sources of HAP that are listed for regulation under CAA section 112(c). A “major source” includes a “stationary source” that emits or has the potential to emit 10 tons per year (tpy) or more of any single HAP or 25 tpy or more of any combination of HAP. An “area source” is a “stationary source” that is not a major source. *See* Section 112(a) of the CAA, 42 U.S.C. § 7412(a).
5. A “stationary source” is any building, structure, facility, or installation that emits or may emit any air pollutant. *See* 42 U.S.C. § 7412(a).
6. The NESHAP General Provisions, 40 C.F.R. §§ 63.1-63.16, apply to affected sources regulated by a relevant NESHAP, provided that the NESHAP explicitly identifies whether each General Provision is included in the NESHAP.
7. The NESHAP General Provisions at 40 C.F.R. § 63.9(b) require the owner or operator of an affected source to submit an initial notification to EPA that the source is subject to the relevant standard.
8. Section 112(i)(3) of the CAA, 42 U.S.C. § 7412(i)(3), and the NESHAP General Provisions at 40 C.F.R. § 63.4, prohibit the owner or operator of an affected source from operating such source in violation of any NESHAP applicable to such source.

40 C.F.R. Part 63, Subpart XXXXXX

9. Pursuant to Section 112(d) of the CAA, EPA promulgated Subpart XXXXXX. *See* 73 Fed. Reg. 43000. Subpart XXXXXX is codified at 40 C.F.R. §§ 63.11514 through 63.11523, and went into effect on July 23, 2008.
10. Subpart XXXXXX applies to the owner or operator of an “area source” that is primarily engaged in the operations in one of nine listed source categories, including “fabricated metal products.” *See* 40 C.F.R. § 63.11514(a)(2).
11. Table 1 of Subpart XXXXXX defines “fabricated metal products” as “[e]stablishments primarily engaged in manufacturing fabricated metal products, such as...metal boxes...and other fabricated metal products not elsewhere classified.”
12. Subpart XXXXXX applies to each new and existing “affected source” listed and defined in 40 C.F.R. § 63.11514(b)(1) through (5) if the owner or operator uses materials that contain or have the potential to emit metal fabrication or finishing metal HAP (MFHAP). *See* 40 C.F.R. § 63.11514(b). “Affected sources” include machining operations, welding operations, spray painting, and dry grinding and dry polishing operations. *See* 40 C.F.R. § 63.11514(b)(1) through (5).

13. Subpart XXXXXX at 40 C.F.R. § 63.11514(b) defines “MFHAP” to include the compounds of chromium, lead, and nickel, in amounts greater than or equal to 0.1 percent by weight of the metal, and materials that contain manganese in amounts greater than or equal to 1.0 percent by weight of the metal.
14. Subpart XXXXXX at 40 C.F.R. § 63.11514(c) provides that an affected source is “existing” if construction or reconstruction of the source commenced on or before April 3, 2008.
15. Subpart XXXXXX at 40 C.F.R. § 63.11515(a) requires the owner or operator of an existing affected source to achieve compliance with the applicable provisions of Subpart XXXXXX no later than July 25, 2011.
16. Subpart XXXXXX at 40 C.F.R. § 63.11516(b) requires the owner or operator of a new or existing machining source to implement management practices listed in (b)(1) and (2).
17. Subpart XXXXXX at 40 C.F.R. § 63.11516(f) requires the owner or operator of a new or existing welding source to comply with the requirements in paragraphs (f)(1) and (2).
18. Subpart XXXXXX at 40 C.F.R. § 63.11517(a) requires that visual determination of fugitive emissions must be performed at facilities subject to Subpart XXXXXX according to the procedures of EPA Method 22, of 40 C.F.R. part 60, Appendix A-7. You must conduct the EPA Method 22 test while the affected source is operating under normal conditions. The duration of each EPA Method 22 test must be at least 15 minutes, and visible emissions will be considered to be present if they are detected for more than six minutes of the fifteen minute period.
19. Subpart XXXXXX at 40 C.F.R. § 63.11517(b) requires that visual determinations of fugitive emissions must be performed at facilities subject to Subpart XXXXXX in accordance with 40 C.F.R. § 63.11517(a) and according to the schedule in 40 C.F.R. § 63.11517(b)(1) through (4), as follows:
 - (1) *Daily Method 22 Testing.* Perform visual determination of fugitive emissions once per day, on each day the process is in operation, during operation of the process;
 - (2) *Weekly Method 22 Testing.* If no visible fugitive emissions are detected in consecutive daily EPA Method 22 tests, performed in accordance with paragraph (b)(1) of this section for 10 days of work day operation of the process, you may decrease the frequency of EPA Method 22 testing to once every five days of operation of the process (one calendar week). If visible fugitive emissions are detected during these tests, you must resume EPA Method 22 testing of that operation once per day during each day that the process is in operation, in accordance with paragraph (b)(1) of this section;

- (3) *Monthly Method 22 Testing.* If no visible fugitive emissions are detected in four consecutive weekly EPA Method 22 tests performed in accordance with paragraph (b)(2) of this section, you may decrease the frequency of EPA Method 22 testing to once per 21 days of operation of the process (one calendar month). If visible fugitive emissions are detected during these tests, you must resume weekly EPA Method 22 in accordance with paragraph (b)(2) of this section; and
 - (4) *Quarterly Method 22 Testing.* If no visible fugitive emissions are detected in three consecutive monthly EPA Method 22 tests performed in accordance with paragraph (b)(3) of this section, you may decrease the frequency of EPA Method 22 testing to once per 60 days of operation of the process (3 calendar months). If visible fugitive emissions are detected during these tests, you must resume monthly EPA Method 22 in accordance with paragraph (b)(3) of this section.
20. Subpart XXXXXXX at 40 C.F.R. § 63.11519(a)(1) requires that an owner or operator of an existing affected source must submit, no later than July 25, 2011, the Initial Notification required by 40 C.F.R. § 63.9(b), providing the information set forth in 40 C.F.R. § 63.11519(a)(1)(i) through (iv).
 21. Subpart XXXXXXX at 40 C.F.R. § 63.11519(a)(2) requires the owner or operator of an existing affected source to submit a Notification of Compliance Status on or before November 22, 2011, providing the information set forth in 40 C.F.R. § 63.11519(a)(2)(i) through (iv).
 22. Subpart XXXXXXX at 40 C.F.R. § 63.11519(b) requires the owner or operator of an affected source to prepare an annual compliance certification report, providing the information set forth in 40 C.F.R. § 63.11519(b) (1) through (7).
 23. Subpart XXXXXXX at 40 C.F.R. § 63.11523 requires the owner or operator of an affected source to comply with the requirements of the NESHAP General Provisions set forth in Table 2 to Subpart XXXXXXX.
 24. Pursuant to Table 2 to Subpart XXXXXXX, the NESHAP General Provision requirements applicable to affected sources under Subpart XXXXXXX include 40 C.F.R. §§ 63.4 and 63.9(b)(1)(5).

Ohio SIP

25. EPA approved Ohio Administrative Code (OAC) Rule 3745-31 as part of the federally enforceable SIP for Ohio. *See* 45 Fed. Reg. 72119.
26. OAC Rule 3745-31-02(A) provides that no person shall cause, permit, or allow the installation of a new source of air pollutants without first obtaining a permit-to-install from Ohio EPA.

27. On June 10, 1982, EPA approved OAC Rule 3745-35 as part of the federally enforceable SIP for Ohio. *See* 47 Fed. Reg. 25144.
28. OAC Rule 3745-35-02(A) sets forth that 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 EPA.

Enforcement Authority

29. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), authorizes 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 requirement or prohibition of an applicable implementation plan, regulation, or permit.
30. Pursuant to 40 C.F.R. § 52.23, any person failing to comply with an approved regulatory provision of a SIP is subject to an enforcement action under Section 113 of the Act, 42 U.S.C. § 7413.

FINDINGS OF FACT

31. Paragon owns and operates a metal fabrication job shop located at 4317 Kugler Mill Road, Cincinnati, Ohio, which primarily fabricates stainless and carbon steel, and is a “stationary source” as that term is defined in 42 U.S.C. § 7412(a).
32. Paragon was and is an “owner” and an “operator” as those terms are defined in Section 112 of the CAA, 42 U.S.C. § 7412, and 40 C.F.R. § 63.2, of a Facility engaged in producing “fabricated metal products,” as that term is defined in Table 1 of Subpart XXXXXX.
33. Paragon’s Facility is an “area source” of HAP emissions.
34. Paragon’s Facility was and is subject to Subpart XXXXXX at all times relevant to this NOV/FOV because it was and is an “area source,” primarily engaged in the production of “fabricated metal products.”
35. Paragon’s Facility fabricates metal products using materials that contain or have the potential to emit MFHAP, as defined in Subpart XXXXXX at 40 C.F.R. § 11514(b), including chromium, nickel, and manganese.
36. Except for the waterjet and new laser cutter emission sources set forth in Paragraph 38, Paragon’s Facility was constructed or reconstructed on or before April 3, 2008, and is therefore an “existing source,” as that term is defined at Subpart XXXXXX at 40 C.F.R. § 63.11514(c).

37. Subpart XXXXXX thus applies to each “affected source” at Paragon’s Facility listed and defined in 40 C.F.R. § 63.11514(b)(1) through (5), including all equipment and activities necessary to perform machining operations, welding operations, spray painting, and dry grinding, that use materials containing MFHAP.

38. Paragon began operating the following air emissions sources in the years specified below:

Initial Operation of Air Emission Source at Facility	
Source	Year
Metal Welding & Grinding	1992
Mill	1992
Painting	1993
Old Laser Cutter	1997

39. Paragon constructed the following air emissions sources in the years specified below:

Air Emission Source Installation	
Source	Year
Waterjet Construction	2012-13
New Laser Cutter Construction	2015

40. On June 6, 2015, EPA conducted an inspection of the Paragon Facility.

41. During the June 6, 2015 inspection, Paragon was unable to provide any documentation demonstrating Paragon’s compliance with Subpart XXXXXX, as follows:

- a. Paragon did not have records showing it submitted to EPA an Initial Notification for its metal fabrication operation on or before July 25, 2011;
- b. Paragon did not have records showing it submitted to EPA a Notification of Compliance Status for its metal fabrication operation on or before November 22, 2011; and
- c. Paragon had not prepared annual compliance certification reports at its metal fabrication operation for the calendar years 2010-2014.

VIOLATIONS

42. Paragon violated 40 C.F.R. § 63.11519(a)(1) and Section 112 of the CAA, 42 U.S.C. § 7412, by failing to submit an Initial Notification for its metal fabrication operation on or before July 25, 2011.

43. Paragon violated 40 C.F.R. § 63.11519(a)(2) and Section 112 of the CAA, 42 U.S.C. § 7412, by failing to submit a Notification of Compliance Status for its metal fabrication operation on or before November 22, 2011.

44. From 2011 to the present, Paragon violated 40 C.F.R. § 63.11519(b) and Section 112 of the CAA, 42 U.S.C. § 7412, by failing to prepare an annual compliance certification report for its metal fabrication operation.
45. From 2011 to present, Paragon violated the Ohio SIP at Rule 3745-35-02(A), by failing to apply for a permit-to-operate to include the air emissions sources identified in Paragraph 38.
46. Paragon violated the Ohio SIP at Rule 3745-31-02(A), by failing to apply for permits-to-install the waterjet and new laser cutter air emissions sources identified in Paragraph 39.
47. From 2011 to the present, Paragon violated 40 C.F.R. § 63.11517(a) and Section 112 of the CAA, 42 U.S.C. § 7412, by failing to perform visual determinations of fugitive emissions at its metal fabrication operation according to the procedures of EPA Method 22, of 40 C.F.R. Part 60, Appendix A-7, and the schedule set forth in 40 C.F.R. § 63.11517(b).

Environmental Impact of Violations

48. Violations of the NESHAPs can result in excess HAP emissions that may cause serious health effects, and harmful environmental and ecological effects.

Date

12/23/13

George T. Czerniak
Director
Air and Radiation Division