



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

MAR 26 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Steven F. Faeth
Senior Counsel
Environmental, Health, and Safety Law Department
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272-0001

Dear Mr. Faeth:

I have enclosed an executed copy of an Administrative Consent Order between PPG Industries, Inc. (PPG) and the U.S. Environmental Protection Agency. This Order resolves the August 31, 2012, Finding of Violation that was issued to PPG. If you have any questions regarding the Order, please contact Charles Hall of my staff at (312) 353-3443 or by e-mail at hall.charles@epa.gov.

Thank you for your cooperation.

Sincerely,

Virginia Galinsky for

Brian Dickens, Chief
Minnesota/Ohio Air Enforcement and Compliance Assurance Section

cc: Robert Hodanbosi, Ohio Environmental Protection Agency
Kelly Toth, Ohio Environmental Protection Agency
Diane Kappas, PPG Industries, Inc.

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:) Administrative Consent Order
)
PPG Industries Ohio, Inc.) EPA-5-13-113(a)-OH-1
Circleville, Ohio)
)
Proceeding pursuant to Sections 113(a)(3) and)
114(a)(1) of the Clean Air Act, 42 U.S.C.)
 §§ 7413(a)(3) and 7414(a)(1).)

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency, Region 5, is issuing this Order to PPG Industries Ohio, Inc. (PPG) under Sections 113(a)(3) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(3) and 7414(a)(1).

Statutory and Regulatory Background

2. The Administrator of EPA may promulgate regulations establishing National Emission Standards for Hazardous Air Pollutants under Section 112 of the Act, 42 U.S.C. § 7412.
3. Under Section 112 of the Act, the Administrator promulgated the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors (the HWC MACT) at 40 C.F.R. §§ 63.1200 through 63.1221. The HWC MACT applies to, among other things, hazardous waste incinerators.
4. Pursuant to 40 C.F.R. § 63.1219(a)(1)(i)(A) of the HWC MACT, the owner or operator of an existing hazardous waste incinerator equipped with a waste heat boiler or dry air pollution control system must not discharge or cause combustion gases to be emitted into the atmosphere that contain dioxins and furans in excess of 0.20 nanogram toxic equivalent 2,3,7,8-tetrachlorodibenzo-para-dioxin per dry standard cubic meter corrected to 7 percent oxygen (ng TEQ/dscm at 7% O₂).
5. Under Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating the NESHAP regulations. The Administrator has delegated this authority to the Director of the Air and Radiation Division.
6. The Administrator of EPA may require any person who owns or operates an emission source to sample emissions under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

7. PPG owns and operates a hazardous waste incinerator located at 559 Pittsburgh Road, Circleville, Ohio (the Facility).
8. The hazardous waste incinerator at the Facility is subject to 40 C.F.R. Part 63, Subpart EEE.
9. Neither EPA nor the Ohio Environmental Protection Agency (Ohio EPA) granted to PPG an extension of time under 40 C.F.R. § 63.6(i) or § 63.1213.
10. On March 6 and 7, 2012, Air Compliance Group, LLC (ACG), on behalf of PPG conducted a confirmatory performance test (CfPT) on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using EPA Publication SW-846 Method 0023A (Method 0023A). The average dioxin/furan emission concentration during the test was 0.53 ng TEQ/dscm at 7% O₂.
11. On May 2 and 3, 2012, ACG on behalf of PPG conducted a CfPT on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using Method 0023A. The average dioxin/furan emission concentration during the test was 0.99 ng TEQ/dscm at 7% O₂.
12. On August 1, 2012, PPG submitted a report with the final results of the March 6 and 7 and May 2 and 3, 2012, CfPTs to EPA and the Ohio EPA.
13. On August 30 and 31, 2012, ACG on behalf of PPG conducted a CfPT on the hazardous waste incinerator at the Facility as required by 40 C.F.R. § 63.1207 using Method 0023A. The average dioxin/furan emission concentration during the test was 0.34 ng TEQ/dscm at 7% O₂.
14. On December 4, 2012, PPG submitted a report with the final results of the August 30 and 31, 2012, CfPT to EPA and the Ohio EPA.
15. On August 31, 2012, EPA issued to PPG a Finding of Violation alleging that PPG violated the HWC MACT by discharging combustion gases into the atmosphere that contained dioxins and furans in excess of 0.20 ng TEQ/dscm at 7% O₂ from its hazardous waste incinerator at the Facility on each day of operation between March 6, 2012, and March 20, 2012, and on May 6 and 7, 2012.
16. On November 29, 2012, EPA and PPG held a conference call to discuss the August 31, 2012, Finding of Violation.

Compliance Program

17. PPG certifies that it has ceased feeding hazardous waste to the incinerator at the Facility since August 31, 2012.

18. By no later than May 15, 2013, PPG will notify the Director of the Ohio EPA and EPA Region 5 that the hazardous waste incinerator received the final volume of hazardous waste. By no later than July 1, 2013, PPG will notify the Director of the Ohio EPA and EPA Region 5 that it has initiated closure of the hazardous waste incinerator pursuant to OAC Rule 3745-55 (40 C.F.R. Part 264, Subpart G). Provided, however, that PPG may elect, to comply with the alternate requirements set forth in paragraph 20 in lieu of the requirements set forth in this paragraph, if PPG notifies EPA by May 15, 2013 that it is electing to pursue the procedures set forth in paragraph 20.
19. Nothing in this Order shall preclude PPG from waste energy recovery at the Facility, in compliance with all applicable requirements, using fuels that are not hazardous wastes subject to the requirements of 40 C.F.R. Part 63, Subpart EEE.
20. Alternate Compliance Plan: If PPG provides timely notice pursuant to paragraph 18, PPG may, in lieu and instead of complying with the requirements set forth in paragraph 18, comply with the following requirements:
 - a. By no later than July 1, 2013, PPG must submit a compliance plan to EPA that outlines the steps that PPG will take to bring its hazardous waste incinerator into compliance with the dioxin/furan emission standard at 40 C.F.R. § 63.1219(a)(1)(i)(A).
 - b. Except in accordance with this paragraph 20, PPG shall not operate the hazardous waste incinerator at the facility until PPG can demonstrate compliance with the applicable dioxin/furan emission standard.
 - c. By no later than August 15, 2013, PPG must submit a comprehensive performance test (CPT) plan to EPA. The plan must include the information specified in 40 C.F.R. § 63.1207(f)(1).
 - d. By no later than 365 days from the effective date of this Order, PPG must conduct a CPT on the hazardous waste incinerator at the Facility to demonstrate compliance with the emission standards set forth in 40 C.F.R. § 63.1219(a) and to establish the operating parameter limits specified in 40 C.F.R. § 63.1209(j) through (p).
 - e. Pursuant to 40 C.F.R. § 63.1209(g)(2), the Administrator of EPA may determine on a case-by-case basis at any time that PPG may need to limit additional or alternative operating parameters or that alternative approaches to establish limits on operating parameters may be necessary to document compliance with the emission standards of this subpart.
 - f. By no later than 395 days after the effective date of this Order, PPG must submit the preliminary results of the CPT to EPA.
 - g. By no later than 425 days after the effective date of this Order, PPG must submit the

final report for the CPT to EPA.

- h. If PPG does not demonstrate compliance with the dioxin/furan emission standard at 40 C.F.R. § 63.1219(a)(1)(i)(A) in accordance with the schedule set forth above or such other times as the parties to this Order may agree upon in writing, then PPG must notify EPA Region 5 that it has initiated closure of the hazardous waste incinerator in accordance with applicable Resource Conservation and Recovery Act and other regulations within 90 days after the CPT test.

21. PPG must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
EPA, Region 5
Air Enforcement and Compliance Assurance Branch
77 West Jackson Boulevard
Chicago, Illinois 60604.

General Provisions

22. Force Majeure:

- a. PPG agrees to perform all requirements of this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, a *force majeure* is defined as any event arising from causes beyond the control of PPG, or of any entity controlled by PPG, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Order despite PPG's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the obligations or increased cost of performance.
- b. If any event occurs or has occurred that may delay the performance of any obligation under this Order, whether or not caused by a *force majeure* event, PPG shall notify EPA orally within 48 hours of when PPG first knew that the event is expected to cause a delay. Within 5 days thereafter, PPG shall provide EPA in writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; PPG's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of PPG, such event may cause or contribute to an endangerment to public health, welfare or the environment. Failure to comply with the above requirements shall be grounds for EPA to deny PPG an extension of time for performance. PPG shall have the burden of demonstrating by a preponderance of the evidence that the event is a *force majeure*, that the delay is warranted under the circumstances, and that best efforts were exercised to avoid and mitigate the effects of the delay.

- c. If EPA determines that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Order that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify PPG in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify PPG in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.
23. This Order does not affect PPG's responsibility to comply with other local, state, and federal laws and regulations.
24. This Order does not restrict EPA's authority to enforce Section 112 of the Act, or any other section of the Act.
25. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for PPG's violation of the HWC MACT.
26. Failure to comply with this Order may subject PPG to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, 73 Fed. Reg. 75345 (Dec. 11, 2008) and 74 Fed. Reg. 627 (Jan. 7, 2009).
27. The terms of this Order are binding on PPG, its assignees and successors. PPG must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to EPA, at the above address, that PPG has given the notice.
28. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.
29. EPA may use any information submitted under this Order in an administrative, civil or criminal action.
30. PPG agrees to the terms of this Order.
31. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate 2 years from the effective date, provided that PPG has complied with all terms of the Order throughout its duration.

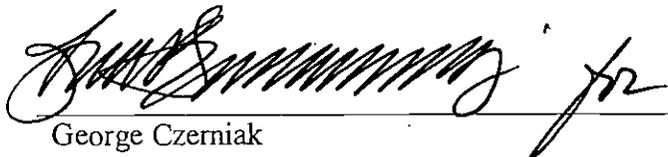
Administrative Consent Order
PPG Industries Ohio, Inc.
Circleville, Ohio

3/13/13
Date



Diane Kappas
Vice President, Environment, Health & Safety
PPG Industries, Inc.

3/26/13
Date



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

CERTIFICATE OF MAILING

I, Loretta Shafiq, certify that I sent an original of Administrative Consent Order Number EPA-5-13-113(a)-OH-1 by Certified Mail, Return Receipt Requested, to:

Steven F. Faeth
Senior Counsel
Environmental, Health, and Safety Law Department
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272-0001

I also certify that I sent a copy of Administrative Consent Order Number EPA-5-13-113(a)-OH-1 by First-Class Mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
50 West Town Street, Suite 700
Columbus, Ohio 43215

Kelly Toth
Air Pollution Control Supervisor
Central District Office
Ohio Environmental Protection Agency
50 W. Town Street, Suite 700
Columbus, Ohio 43215

Diane Kappas
Vice President
Environment, Health & Safety
PPG Industries, Inc.
One PPG Place
Pittsburgh, PA 15272-0001

on the 26 day of March 2013

Loretta Shafiq
Administrative Program Assistant

Certified Mail Receipt Number: 7009 1680 0000 7674 1330