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

MAR 0 5 2008

REPLY TO THE ATTENTION OF:
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Ryba, Plant Manager
PVS Chemical Solutions, Inc.
12260 South Carondolet Avenue
Chicago, Illinois 60633

Dear Mr. Ryba:

This is to advise you that the U. S. Environmental Protection Agency has determined that the PVS Chemical Solutions, Inc. (PVS), facility at 12260 Carondolet Avenue, Chicago, Illinois, is in violation of the Clean Air Act (CAA) and associated state pollution control requirements. A list of requirements violated is provided below. We are today issuing to you a Notice and Finding of Violation (NOV/FOV) for these violations.

The CAA requires the development of Primary and Secondary National Ambient Air Quality Standards to protect public health and welfare. To attain and maintain these standards, each State is also required to develop an implementation plan. Illinois' State Implementation Plan (SIP) includes the following requirements:

1) The Illinois SIP prohibits individuals from causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution in Illinois. This limit is found at 35 IAC 201.141.

Section 111 of the CAA requires EPA to implement the New Source Performance Standards (NSPS) program. The NSPS are nationally uniform emission standards for new or modified stationary sources falling within industrial categories that significantly contribute to air pollution.

The NSPS "General Provisions" at 40 C.F.R. Part 60, Subpart A, includes the following requirements:

1) EPA must be notified prior to any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which an NSPS standard applies. This notice shall be postmarked at least 60 days, or as soon as practicable before the change is commenced, and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change.

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2) EPA must be notified at least 30 days prior to the date upon which demonstration of the continuous monitoring system performance commences in accordance with 40 C.F.R. § 60.13(c).

3) Each owner or operator required to install a continuous monitoring device shall submit excess emissions and monitoring systems performance report to the Administrator semiannually.

4) Each owner or operator of an affected source shall conduct performance testing and furnish the Administrator a written report of the results of such performance test shall within 60 days after achieving the maximum production rate at which the affected facility will be operated, but not later than 180 days after initial startup of such facility.

5) Each owner or operator of an affected source shall provide the Administrator at least 30 days prior notice of any performance test, to afford the Administrator the opportunity to have an observer present.

6) At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

7) Each owner or operator shall have all continuous monitoring systems and monitoring devices installed and operational prior to conducting performance tests under 40 C.F.R. § 60.8.

8) The owner or operator of an affected facility shall conduct a performance evaluation of the continuous emission monitoring system during any performance test required under 40 C.F.R. § 60.8 or within 30 days in accordance with the applicable performance specification.

Section 114 of the CAA authorizes the EPA Administrator to obtain information from owners or operators of an emission source to determine compliance with the CAA.

Section 503(c) of the CAA also requires that any person required to have a permit under Title V to timely submit an application for a permit.

EPA finds that PVS has violated the above-listed Illinois SIP requirements, and the NSPS, Part 70 and Section 114 requirements of the CAA.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the NOV. This conference will provide you a chance to present

information on the identified violations, any 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 also have an attorney represent you at this conference.

The EPA contact in this matter is Terry Stanuch, an attorney in our Office of Regional Counsel. You may call him at (312) 886-8044 to request a conference. You should make the request as soon as possible, but no later than 14 calendar days after you receive this letter, and any such conference should be held within 30 calendar days of your receipt of this letter.

Sincerely yours,

Cheryl L. Newton, Acting Director
Air and Radiation Division

Enclosure

cc: Ray Pilapil, Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	**NOTICE AND FINDING OF VIOLATION**
PVS Chemical Solutions, Inc. Chicago, Illinois	)	**EPA-5-08-08-IL**
Proceedings Pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq.	)	

NOTICE AND FINDING OF VIOLATION

PVS Chemical Solutions (you or PVS) owns and operates a production facility that manufactures sulfuric acid and various other sulfur products at 12260 South Carondolet Avenue, Chicago, Illinois, 60633 (the Facility).

The U.S. Environmental Protection Agency (EPA) is sending this Notice of Violation and Finding of Violation (NOV/FOV or Notice) to notify you of several items. We find that this PVS facility is in violation of Illinois State Implementation Plan (SIP) by causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as to cause or tend to cause air pollution in Illinois. We also find that this PVS Facility is in violation of the following three requirements of the Clean Air Act (CAA): (1) emission units were modified making them subject to the requirements of the New Source Performance Standards (NSPS) General Provisions at 40 C.F.R. Part 60 Subpart A, and the Standards of Performance for Sulfuric Acid Plants at 40 C.F.R. Part 60 Subpart H, but you have yet to fully comply with the applicable notification, performance testing, reporting, monitoring, or good engineering practice requirements of these subparts; (2) you failed to completely answer an Information Request submitted to you by EPA, in violation of Section 114 of the CAA; and (3) you failed to comply with the Title V requirements of the CAA by failing to apply for a Title V operating permit upon this PVS facility becoming an affected source pursuant to NSPS regulations.

Explanation of Violations

Illinois SIP Violations

1. The Illinois SIP at 35 IAC 201.141 prohibits any person from causing, threatening, or allowing the discharge or emission of any contaminant into the environment so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois.

2. The Illinois SIP at 35 IAC 201.102 defines air pollution as the presence in the atmosphere of one or more air contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

3. Based on an evaluation of observations of fugitive process emissions made by EPA's own inspectors, Illinois Environmental Protection Agency's inspectors, Chicago Department of Environment staff, as well as complaints by citizens near the PVS facility, EPA has determined that PVS is causing, threatening, and allowing the discharge of contaminants that cause or tend to cause air pollution in Illinois.

NSPS Violations

4. The NSPS General Provisions at 40 C.F.R. § 60.7(a)(4) require that the owner or operator of an affected source to notify the EPA Administrator of any physical or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies. This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change.

5. Based on an evaluation of information submitted by PVS regarding: the Sulfur Dioxide Project in 1998; the replacement of the No. 2 absorbing tower in 1999; and the replacement of the dry towers and main compressor in 2003 (hereinafter the Projects); PVS has made at least three physical changes to the Facility that have increased the emission rate of an air pollutant which, in this case, is sulfur dioxide. Consequently, these Projects are "modifications" and this PVS Facility is now an "affected facility" and, as such, is subject to the NSPS General Provisions at 40 C.F.R. Part 60 Subpart A, and the Standards of Performance for Sulfuric Acid Plants at 40 C.F.R. Part 60, Subpart H.

6. The NSPS General Provisions at 40 C.F.R. § 60.7(a)(5) require that the owner or operator of a source submit to the EPA Administrator a notification of the date upon which demonstration of the continuous monitoring system performance commences in accordance with 40 C.F.R. § 60.13(c). Notification shall be postmarked not less than 30 days prior to such date.

7. EPA has not received any notification that PVS has demonstrated the performance of the continuous monitoring system in accordance with 40 C.F.R. § 60.13(c).

8. The NSPS General Provisions at 40 C.F.R. § 60.7(c)(1)-(4) require that the owner or operator of a source required to install a continuous monitoring device submit a excess emissions and monitoring systems performance report and/or summary report form to the EPA Administrator semiannually.

9. EPA has not received any reports from PVS concerning excess emissions and monitoring systems performance pursuant to 40 C.F.R. § 60.7(c)(1)-(4).

10. The NSPS General Provisions at 40 C.F.R. § 60.8(a) require that the owner or operator of a source conduct performance tests and furnish the EPA Administrator a written report of the results.

11. PVS has not carried out performance testing pursuant to 40 C.F.R. § 60.8(a), nor has EPA received a report giving the results of such a test.

12. The NSPS General Provisions at 40 C.F.R. § 60.8(d) require that the owner or operator of an affected facility provide the EPA Administrator at least 30 days prior notice of any performance test.

13. EPA has not received any notification from PVS concerning the scheduling of performance testing pursuant to NSPS requirements, as required by 40 C.F.R. § 60.8(d).

14. The NSPS General Provisions at 40 C.F.R. § 60.11(d) require that the owner or operator of an affected facility maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions at all times, including periods of startup, shutdown, and malfunction.

15. EPA's evaluation of observations of fugitive process emissions made by EPA's own inspectors, Illinois Environmental Protection Agency's inspectors, Chicago Department of Environment staff, as well as complaints by citizens near the PVS facility, indicates that PVS is not maintaining and operating its affected facility in a manner consistent with good air pollution control practices.

16. The NSPS General Provisions at 40 C.F.R. § 60.13(b) require that all continuous monitoring systems and monitoring devices shall be installed and operational prior to conducting performance tests under 40 C.F.R. § 60.8. Verification of operational status shall, as a minimum, include completion of the manufacturer's written requirements or recommendations for installation, operation, and calibration of the device.

17. The NSPS General Provisions at 40 C.F.R. § 60.13(c) require that the owner or operator of an affected facility to conduct a performance evaluation of any continuous emission monitoring systems during any performance test required under 40 C.F.R. § 60.8 or within 30 days thereafter in accordance with the applicable performance specification in appendix B of this part.

18. EPA has not received any information that PVS has fulfilled the requirements of 40 C.F.R. § 60.13(b) and (c) in preparation to carry out a performance test required under 40 C.F.R. § 60.8.

Section 114 Violations

19. Section 114 of the CAA authorizes the EPA Administrator to require any person who owns or operates any emission source to provide information that the Administrator may require to determine whether any person is in violation of any standard or requirement.

20. In its November 2007 Information Request Response, PVS did not provide the original cost to construct its sulfuric acid facility, as requested in EPA's October 2007 Information Request.

Title V Violations

21. Section 503(c) of the CAA, 42 U.S.C. § 7661b(c), requires any person required to have a permit under Title V to timely submit an application.

22. PVS, upon becoming an affected facility pursuant to NSPS regulations after carrying out projects modifying its emission source, was required to timely submit a Title V application.

23. To date, PVS has not submitted an application for a Title V permit.

Environmental Impact of the Violations

24. Violation of the SIP and NSPS standards results in increased public exposure to sulfuric acid mist and sulfur dioxide. These chemicals can be deadly when humans are exposed to them in sufficient amounts. Other non-lethal effects of exposures include irritation of the breathing passages resulting in sore throat, coughing, and shortness of breath; irritation of the eyes, and skin, and chemical burns.

25. The release of sulfur dioxide into the atmosphere also can contribute to the formation of acid rain. Acid rain can damage property, as well as natural vegetation.

3/5/08
Date

Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Leslie Payne, certify that I sent a Notice and Finding of Violation, No. EPA-5-08-08-IL, by Certified Mail, Return Receipt Requested, to:

Ray Pilapil, Manager
Bureau of Air
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62702

I also certify that I sent a copy of the Notice and Finding of Violation by interoffice mail to:

Betty Williams
Air and Radiation Division
Mail Code AE-17J

all on the 1st day of July, 2008.

Leslie Payne
Name
Section 2
Multi-media Branch II
Office of Regional Counsel
Phone: 312 886-5932

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1453 8196