



1000 Vermont Avenue, NW
Suite 1100
Washington, DC 20005
Main: 202-296-8800
Fax: 202-296-8822
www.environmentalintegrity.org

Honorable Susan Bodine
Assistant Administrator
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency

Environmental Protection Agency
Office of Enforcement and Compliance Assurance, 2201A
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Assistant Administrator,

We write to respectfully request clarification of the Office of Enforcement and Compliance Assurance (OECA) policy regarding the tracking of high priority violations of the Clean Air Act.

The attached table identifies ten facilities that have received notice letters from EPA identifying specific violations of Clean Air Act emission limits for lead, manganese, dioxins, and other hazardous air pollutants. The list includes several sites where (according to EPA) the violations have elevated concentrations of lead or other contaminants to levels that violate air quality standards.

For example, EPA notified USG Interiors on January 3, 2016, that sulfur dioxide emissions from its plants in Red Wing, Minnesota, resulted in violations of federal air quality standards, “over an extensive offsite area surrounding the Red Wing plant.”¹ Similarly, EPA alleged on December 28, 2016, that emissions from a Rockford, Illinois scrap processing facility violated the air quality standard for lead, based on measurements at the plant’s fence line from August through October of 2016.²

EPA’s public database, “Enforcement and Compliance History Online” (ECHO) used to flag such cases as “high priority violations,” requiring prompt enforcement action to ensure these facilities comply with the law and pay an appropriate penalty. Those designations were presumably made by EPA staff responsible for developing those cases, based on criteria the Agency has established for determining which violations “are the most likely to be significant for human health and the environment or for maintenance of strong CAA [Clean Air Act] programs.”³

¹ Notice of Violation (EPA-5-15-MN-03), “In the Matter of USG Interiors, Inc., Red Wing, Minnesota, Proceedings Pursuant to the Clean Air Act, 42 USC §§ 7401, et. seq.”. (January 7, 2016). The NOV alleges violation of the one hour standard designed to limit peak exposures to sulfur dioxide.

² Notice of Violation (EPA-5-17-IL-03), “In the Matter of Behr Iron and Metal, an Alter Company” Proceedings Pursuant to Section 113(a)(1) of the Clean Air Act, 42 USC § 7413(a)(1),” (December 28, 2016). The NOV alleges violation of the standard limiting lead levels over any three month period to 0.15 micrograms per cubic meter.

³ “Revision of U.S. Environmental Protection Agency’s Enforcement Response Policy for High Priority Violations of the Clean Air Act: *Timely and Appropriate Response to High Priority Violations*,” p.2, Memorandum from

At some point in 2015, the ECHO database stopped identifying these violations as a high priority for enforcement, without indicating whether these cases have been resolved. In prior years, EPA removed this designation only after the source had returned to compliance and paid an appropriate penalty. As the attached excerpts from the ECHO database indicate, the compliance status for each of these cases is now displayed as “unknown,” although notices of violation have been issued to all ten facilities.

EPA requires states that implement federal Clean Air Act programs to report high priority violators as soon as they are identified by a state agency, and those designations remain visible to the public through ECHO until the violations are corrected and any penalties due are paid. We would appreciate your clarifying whether:

- EPA will no longer publicly disclose the high priority violations that its own staff has identified until *after* an enforcement action is concluded or a case closed, or
- EPA has determined for any reason that enforcement is no longer required for any of the facilities on the attached list.

Thank you for any information you can provide.

Sincerely,

Eric Schaeffer
Director, Environmental Integrity Project

Attachment I:

Facility	Location	Violation Type	QTR 1 4/1 - 6/30/2015	QTR 2 7/1 - 9/30/2015	QTR 3 10/1 - 12/31/2015	QTR 4 1/1 - 3/31/2016	QTR 5 4/1 - 6/30/2016	QTR 6 7/1 - 9/30/2016	QTR 7 10/1 - 12/31/2016	QTR 8 1/1 - 3/31/2017	QTR 9 4/1 - 6/30/2017	QTR 10 7/1 - 9/30/2017	QTR 11 10/1 - 12/31/2017	QTR 12 1/1 - 3/31/2018
3M - Cottage Grove	Cottage Grove, MN		No Violation											
American Iron Oxide	Portage, IN	HPV	HPV	HPV	HPV	HPV	HPV	HPV						
Behr Metals Division	Rockford, IL		No Violation											
Gerdau Special Steel NA	Jackson, MI	HPV, HPV	HPV	HPV	HPV	HPV	HPV							
Globe Metallurgical Inc.	Waterford, OH	HPV	HPV	HPV	HPV	HPV	HPV							
Gopher Resource Corp.	Eagan, MN	HPV, HPV	HPV	HPV	HPV	HPV	HPV							
Liberty Casting	Delaware, OH	HPV, HPV, HPV, HPV	No Violation	HPV	HPV	HPV	HPV							Violation
Quemetco Inc.	Indianapolis, IN	HPV	HPV	HPV	HPV	HPV	HPV	HPV	HPV					
Sensient Flavors LLC	Harbor Beach, MI		No Violation											
USG Interiors LLC	Cloquet, MN		No Violation											

* Source: EPA's Enforcement and Compliance History Online (ECHO) database, available at echo.epa.gov.

Table Key

No Violation
Noncompliance
Significant Violation
Unknown

The data in the table above was extracted from the "Detailed Facility Reports" available online on the USEPA's "Enforcement and Compliance History Online" database at echo.epa.gov