

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:	)	EPA-5-19-113(a)-IL-04
	)	
Behr Iron and Metal,	)	
an Alter Company	)	Proceeding Under Section 113(a)(1)
Rockford, Illinois	)	of the Clean Air Act, 42 U.S.C.
	)	§§ 7413(a)(1) and 7414(a)(1)
	)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Behr Iron and Metal, an Alter Company (Behr) under Sections 113(a)(1) and 114(a)(1) of the Clean Air Act (CAA), 42 U.S.C. §§ 7413(a)(1) and 7414(a)(1).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the CAA, 42 U.S.C. § 7410.

3. On May 31, 1972, EPA approved 35 Illinois Administrative Code (Ill. Admin. Code) §§ 201.102 and 201.141 as part of the federally enforceable SIP for the State of Illinois. 37 Fed. Reg. 10842.

4. The Illinois SIP at 35 Ill. Admin. Code § 201.141 provides, in pertinent part, that no person shall cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as, either alone or in combination with contaminants from other sources, to cause or tend to cause air pollution in Illinois, or so as to prevent the attainment or maintenance of any applicable ambient air quality standard.

5. The Illinois SIP at 35 Ill. Admin. Code § 201.102 defines “Ambient Air Quality Standard” as those standards promulgated from time to time by the Illinois Pollution Control Board or by the EPA.

6. The Illinois SIP at 35 Ill. Admin. Code § 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.

7. Under Section 113(a)(1) of the CAA, 42 U.S.C. § 7413 (a)(1), the Administrator of EPA may issue an order requiring compliance to any person who the Administrator finds has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

8. The Administrator of EPA may require any person who owns or operates an emission source to make reports; install, use and maintain monitoring equipment; sample emissions; provide information required by the Administrator under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

9. Behr owns and operates a scrap metal processing facility at 1100 Seminary Street, Rockford, Illinois (the Facility).

10. The Facility includes several lead emission sources, including: a metal separator, two thermal processing units, and three metal melting pots.

11. Behr owns or operates an “emission source” within the meaning of Section 114 (a)(1) of the CAA, 42 U.S.C. § 7414(a)(1). Therefore, Behr is subject to the requirements of Section 114(a)(1).

12. On November 3, 2016, EPA issued to the former owner of the Facility a notice of violation alleging that it violated the 35 Ill. Admin. Code § 201.141 by causing or allowing the emission of lead into the air so as, either alone or in combination with contaminants from other sources, to cause air pollution in Illinois and to prevent the attainment or maintenance of the revised NAAQS for lead. On December 28, 2016, EPA issued to Behr a notice of violation alleging that it violated the 35 Ill. Admin. Code § 201.141 by causing or allowing the emission of lead into the air so as, either alone or in combination with contaminants from other sources, to cause air pollution in Illinois and to prevent the attainment or maintenance of the revised NAAQS for lead.

13. On February 3, 2017 and on several subsequent occasions, representatives of Behr and EPA discussed the December 28, 2016, notice of violation.

Compliance Program

14. Within one year after the effective date of this Order, Behr must achieve, demonstrate and maintain compliance with the Illinois SIP at its Rockford, Illinois facility. Behr has agreed to the Compliance Program set forth in the following paragraphs in order to address issues raised in the notices of violation dated November 3, 2016 and December 28, 2016.

15. Within 30 days of the effective date of this Order, Behr must:

- a. Develop and implement a fugitive dust plan requiring:

- i. A workplace practice limitation requiring lead bearing foundry sand that has been processed at the Sweeco Metal Separator be placed into closed containers prior to handling at exterior locations;
 - ii. The use of an outdoor sweeper unit at least once per week in the outdoor paved areas west and south of Dock 25 and associated on-site truck routes as identified on the attached Figure;
 - iii. If sweeping cannot be accomplished because (a) the ambient air temperature (as measured at the facility during daylight operating hours) will be less than 35 degrees F or conditions due to weather could create hazardous driving conditions, or (b) a rain gauge located at the site indicates that at least 0.2 inches of precipitation (water equivalent) has occurred within the preceding 24-hour time period, then the sweeping shall be postponed and accomplished as soon after the scheduled date as conditions preventing the sweeping have abated.
- b. Dock 25 Building Monitoring:
- i. Behr must conduct quarterly inspections of the building enclosure to identify significant cracks, gaps, corrosion or other deterioration of the building that would allow lead bearing material to be released;
 - ii. Repair deficiencies in the building enclosure identified during the quarterly inspection within two weeks unless contractors or equipment are not available during that time (in which case the deficiencies will be repaired as soon as practicable);

- iii. Take instantaneous readings of differential pressure at three locations within Dock 25 at least one time each day on any day when any of the lead emitting emissions units identified in Section 10(a)(ii) of the Lifetime Operating Permit - Revised, issued by Illinois EPA on March 29, 2018 (LOP) (except the brass sorting table) are in operation; and
 - iv. Perform corrective action if any individual differential pressure reading is less than -0.007 inches of water. Examples of corrective action include, but are not limited to, verifying that baghouses are operating properly or inspecting the building perimeter to confirm no doors are open unnecessarily.
- c. Behr shall maintain records of the following items for at least three (3) years to demonstrate compliance:
- i. The fugitive dust plan that includes, at minimum, the requirements in paragraph 15.a.i through iii. above;
 - ii. A log of sweeper operations and any weather events that prevented operation of the sweeper;
 - iii. A log of Dock 25 quarterly building inspections, corrective actions required (if necessary), the date of completion of any corrective actions, the cause of any delay in repair that exceeded two weeks as required in Paragraphs 15.b.i. and ii; and

- iv. Daily differential pressure data measurement data, corrective actions required (if necessary), and the date of completion of any corrective actions as required by Paragraphs 15.b.iii and iv.

16. Within 30 days of the effective date of this Order, Behr shall submit an administratively complete construction permit application to the Illinois EPA that requests the Illinois EPA to issue a construction permit that includes the requirements in Paragraphs 15.a through c above and incorporation of:

- a. the lead emission limits from Section 10.a.ii of the LOP, except the brass sorting table; and
- b. a requirement that outlet testing for lead at the three stacks associated with the emission units with lead emissions limits from Section 10.a.ii of the LOP (except the brass sorting table) occur once every five (5) years, unless an associated emission unit is modified in such a way that lead emissions may increase from the unit, in which case performance testing must be conducted within 180 days after the modification. The stack outlet testing shall commence no later than October 31, 2020. The stack outlet testing shall be conducted pursuant to Methods 1 through 4 and Method 29 for lead and filterable PM only (or other relevant methods based on prior approval by the Illinois EPA).

17. Behr shall timely respond to any Illinois EPA requests for additional information regarding the construction permit application.

18. Behr shall submit a copy of the construction permit application to EPA within 14 days of submittal to Illinois EPA under Section 114(a)(1) of the CAA, 42 U.S.C. § 7414(a)(1).

19. Behr may discontinue the lead emission monitoring required pursuant to the EPA Information Request issued pursuant to Section 114 of the CAA on September 27, 2018, upon entry of this Order.

20. Behr must send all documents required by this Order to:

Attention: Compliance Tracker (AE-18J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

21. This Order does not affect Behr's responsibility to comply with other federal, state, and local laws.

22. This Order does not restrict EPA's authority to enforce the CAA and its implementing regulations.

23. Failure to comply with this Order may subject Behr to penalties of up to \$97,229 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R.

Part 19.

24. The terms of this Order are binding on Behr, its assignees and successors. Behr must give notice of this Order during its term to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

25. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

26. Behr agrees to the terms of this Order. Behr waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have with

respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

27. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year after the effective date of the Order provided that Behr has complied with all terms of the Order applicable throughout its duration or upon Illinois EPA's issuance of the construction permit which Behr applies for in Paragraph 16 above, whichever is sooner.

Behr Iron and Metal, an Alter Company

December 21, 2018
Date


Sarah Schlichtholz
Behr Iron and Metal, an Alter Company

United States Environmental Protection Agency

12-28-2018
Date

Sara Braun
for Edward Nam
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

I certify that I sent the Administrative Consent Order, EPA-5-19-113(a)-IL-04, by certified mail, return receipt requested, to:

*Sarah Schlichtholz
Behr Iron and Metal an Alter
Company
1100 Seminary Street
Rockford, IL 61104*

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-19-113(a)-IL04, by E- mail to:

*Julie Armitage, Bureau Chief
Bureau of Air
Illinois Environmental
Protection Agency
Julie.armitage@illinois.gov*

On the 28th day of December 2018.

Kathy Jones

Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7017 0536 0000 6289 2174