

Air Enforcement: U.S. Environmental Protection Agency and Eagan, Minnesota, Lead Smelting Facility Enter into Consent Agreement



Walter Wright, Jr.
wwright@mwlaw.com
(501) 688.8839

12/22/2020

The United States Environmental Protection Agency (“EPA”) and Gopher Resource, LLC, (“GR”) entered into a November 30th Consent Agreement and Final Order (“CAFO”) addressing alleged violations of certain Clean Air Act National Emission Standards for Hazardous Air Pollutants (“NESHAP”) rules. See Docket No. CAA-05-2021-0003.

The CAFO provides that GR owns and operates a secondary lead smelting stationary source (“Facility”) in Eagan, Minnesota.

The Facility is stated to be subject to the requirements of the Secondary Lead NESHAP. See 40 C.F.R. Part 63, Subpart X.

EPA is stated to have conducted an inspection of the Facility on June 9, 2014. Further, the agency is stated to have sent an information request to the Facility under Section 114 of the Clean Air Act dated February 18, 2015.

GR is stated to have provided a response to the 2015 information request.

The CAFO alleges that GR:

- Violated 40 C.F.R. § 63.544(c)(1) and the Title V Permit by operating its Facility without continuously maintaining negative pressure at the total enclosure
- Violated 40 C.F.R. § 63.544(c)(1) (c)(2)(i) and the Title V Permit by installing wind shields at two of the three differential pressure monitors used to demonstrate compliance with the total enclosure standards of the Secondary Lead NESHAP
- Violated 40 C.F.R. § 63.544(c)(1) (g) as incorporated into the Title V Permit by failing to maintain the minimum natural gas flow when operating the East Reverberatory Furnace as allowed per the alternative monitoring method approved by EPA pursuant to 40 C.F.R. § 63.6(g)
- Violated 40 C.F.R. § 63.548(j)(1)(3) and (4) in the Title V Permit by failing to establish and maintain a minimum furnace exhaust temperature when operating the Blast Furnace alone, or when the West Reverberatory Furnace was in use
- Violated 40 C.F.R. § 63.547(a)(5) by failing to use an adequate sample volume when performing compliance testing for lead at the East Reverberatory Furnace and Blast Furnace

GR is stated to have disputed the above allegations. However, it is stated to have performed the following activities to respond to EPA’s allegations:

- In 2015, replaced previously existing differential pressure monitors with new units described as providing more accurate data;
- In April 2020, established new operating parameters at the Blast Furnace and East Reverberatory Furnace during performance testing demonstrating compliance with the emission limits of the Secondary Lead NESHAP; and
- Will no longer rely on an alternative monitoring method, approved by EPA on December 12, 2013, which used minimum natural gas flow to the East Reverberatory Furnace to demonstrate compliance with THC and D/F standards.

A civil penalty of \$110,000 is assessed.

A copy of the CAFO can be downloaded [here](#).