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

SEP 04 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David M. Leber
Plant Manager
BWAY Corporation
3200 South Kilbourn Avenue
Chicago, Illinois 60623

William Thomas
Director of Quality and Technical Services
Central Can Company, Inc.
3200 South Kilbourn Avenue
Chicago, Illinois 60623

Re: Notice of Violation and Finding of Violation under 42 U.S.C. § 7413(a)(1) and (a)(3)

Dear Messrs. Leber and Thomas:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to BWAY Corporation and Central Can Company, Inc. (jointly, you) for violations of the Clean Air Act (the Act) identified at the facility located at 3200 South Kilbourn Avenue, Chicago, Illinois 60623 (Facility). The NOV/FOV is issued in accordance with Sections 113(a)(1) and 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (a)(3).

As explained in the NOV/FOV, the EPA finds that you have violated the Act, the Act's implementing regulations, and the Illinois State Implementation Plan (Illinois SIP) at the Facility. Section 113 of the Act, 42 U.S.C. § 7413, gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order; issuing an administrative penalty order; and bringing a judicial civil action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you with 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 the Facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

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The EPA contact in this matter is Dakota Prentice. You may call him at 312.886.6761 or email him at prentice.dakota@epa.gov if you wish to request a conference. The EPA hopes that this NOV/FOV will encourage you to comply with the requirements of the Act and the Illinois SIP.

Sincerely,

George T. Czarniak
Acting Director
Air and Radiation Division

Enclosure

cc: Ray Pilapil
Manager
Bureau of Air, Compliance and Enforcement Section
Illinois Environmental Protection Agency

Granta Y. Nakayama, Esq.
Kirkland & Ellis LLP
655 Fifteenth Street, N.W.
Washington, D.C. 20005-5793

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
BWAY Corporation **Chicago, Illinois**	)	Proceeding Pursuant to the Clean Air Act, 42 U.S.C. §§ 7401-7671q
Central Can Company, Inc. **Chicago, Illinois**	)	**EPA-5-12-IL-13**

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency is issuing this Notice of Violation and Finding of Violation (NOV/FOV) to BWAY Corporation (BWAY) and Central Can Company, Inc. (Central Can) (jointly, you or the Company) to notify you that we have found violations of the Clean Air Act, 42 U.S.C. §§ 7401-7671q (CAA or the Act), and the Illinois State Implementation Plan at the facility located at 3200 South Kilbourn, Chicago, Illinois 60623 (Facility). The relevant statutory and regulatory background, factual background, notice and finding of violations, and environmental impact of these violations are set forth in detail below.

This NOV/FOV is issued in accordance with Section 113(a)(1) and (a)(3) of the Act, 42 U.S.C. § 7413(a)(1) and (a)(3), which authorize the Administrator to take certain enforcement actions after notifying a person that it is in violation of the Act. The authority to issue this NOV/FOV has been delegated by the Administrator to the Regional Administrator and re-delegated to the Director of the Air and Radiation Division for Region 5 of the EPA.

Relevant Statutory and Regulatory Background

National Emission Standards for Hazardous Air Pollutants

1. Section 112 of the Act, 42 U.S.C. § 7412(c), requires the EPA to promulgate a list of all categories and subcategories of new and existing "major sources" of hazardous air pollutants (HAP), and establish emissions standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP). The EPA codified these standards at 40 C.F.R. Parts 61 and 63.

2. 40 C.F.R. Part 63, Subpart A, contains the general provisions for the NESHAP.

3. "Major source" is defined as "any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants." 42 U.S.C. § 7412(a)(1).

4. "Stationary source" is defined as "any building, structure, facility, or installation, which emits or may emit any air pollutant." 42 U.S.C. § 7411(a)(3).

5. "Hazardous air pollutant" is defined as "any air pollutant listed in or pursuant to" Section 112(b) of the Act. 42 U.S.C. § 7412(a)(6).

6. Section 112(i)(3) of the Act, 42 U.S.C. § 7412(i)(3), prohibits any person subject to a NESHAP from operating a source in violation of a NESHAP after its effective date. *See also* 40 C.F.R. §§ 61.05 and § 63.4.

The NESHAP for Surface Coating of Metal Cans

7. Pursuant to Section 112 of the Act, the EPA promulgated the NESHAP for Surface Coating of Metal Cans at 40 C.F.R. Part 63, Subpart KKKK, 40 C.F.R. §§ 63.3480-63.3561, on November 13, 2003. 68 Fed. Reg. 64432.

8. The NESHAP at 40 C.F.R. Part 63, Subpart KKKK, applies to owners or operators of existing sources that use 5,700 liters (1,500 gallons) per year or more of coatings to coat metal cans and that are major sources of HAP emissions. 40 C.F.R. §§ 63.3481(a) and (b).

9. 40 C.F.R. § 63.3483(b) provides that the compliance date for an existing affected source is November 13, 2006.

10. 40 C.F.R. § 63.3490(b) requires an existing affected source to limit organic HAP emissions to the atmosphere to no more than the emission limit(s) in Table 2 of 40 C.F.R. Part 63, Subpart KKKK, that apply to the source during each 12-month compliance period.

11. 40 C.F.R. § 63.3491 provides four separate compliance options that an affected source can use to determine whether its organic HAP emission rate is equal to or less than the applicable emission limit in 40 C.F.R. § 63.3490. Two of the relevant compliance options include: (1) demonstrating that, based on the coatings and thinners used in the coating operation(s), the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in 40 C.F.R. § 63.3490, calculated as a rolling 12-month emission rate and determined on a monthly basis (40 C.F.R. § 63.3491(b), emission rate without add-on controls option); and (2) demonstrating that, based on the coatings and thinners used in the coating operation(s) and the emission reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in 40 C.F.R. § 63.3490, calculated as a rolling 12-month emission rate and determined on a monthly basis (40 C.F.R. § 63.3491(c), emission rate with add-on controls option).

12. "Capture system" is defined as "one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings, both at the point of application and at subsequent points where emissions from coatings occur, such as flash-off, drying, or curing." 40 C.F.R. § 63.3561.

13. "Add-on control" is defined as "an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere." 40 C.F.R. § 63.3561.

14. 40 C.F.R.§ 63.3491(c) states when a source that elects to comply with emission limits through use of add-on controls, it must, in addition to demonstrating that its organic HAP emission rate is less than or equal to the applicable emission limit in 40 C.F.R. § 63.3490, demonstrate that all emission capture systems and add-on control devices for the coating operation(s) used for purposes of complying with Subpart KKKK meet the operating limits required in 40 C.F.R § 63.3492.

15. 40 C.F.R. § 63.3492(b) states that when the add-on controls compliance option is utilized, the source must meet the operating limits specified in Table 4 of Subpart KKKK and that the operating limits must be established during the initial performance test.

16. 40 C.F.R. Part 63, Subpart KKKK, Table 4, states that when a source utilizes the emission limit with add-on controls compliance option with a thermal oxidizer, the average combustion temperature in each 3-hour block period must not fall below the combustion temperature limit established during the initial performance test.

17. 40 C.F.R. Part 63, Subpart KKKK, Table 4, states that when a source utilizes the emission limit with add-on controls compliance option with a catalytic oxidizer, the average temperature difference across the catalyst bed in each 3-hour period, as well as the average temperature measured at the inlet to the catalyst bed in each 3-hour block period, must not fall below the limits established during the initial performance test.

18. 40 C.F.R. § 63.3500(a)(1) provides that a coating operation utilizing the emission rate without add-on controls option, as specified in 40 C.F.R. § 63.3491(b), must be in compliance with the applicable emission limit in 40 C.F.R. § 63.3490. *See also* 40 C.F.R. § 63.4(a)(1).

19. 40 C.F.R. § 63.3500(a)(2) provides that a coating operation utilizing the emission rate with add-on controls option, as specified in 40 C.F.R. § 63.3491(c), must be in compliance with the applicable emission limit in 40 C.F.R. § 63.3490 at all times and the operating limits for emission capture systems and add-on control devices required by 40 C.F.R. § 63.3492 at all times.

20. 40 C.F.R. § 63.3500(b) provides that an affected source, including all air pollution control and monitoring equipment used to comply with Subpart KKKK, must be operated and maintained in accordance with 40 C.F.R. § 63.6(e)(1)(i).

21. 40 C.F.R. § 63.6(e)(1)(i) provides that the owner or operator must operate and maintain an affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times.

22. 40 C.F.R. § 63.3542(c)(1) states that if an operating parameter is out of the allowed range specified in 40 C.F.R. Part 63, Subpart KKKK, Table 4, it is a deviation from the operating limit and must be reported.

23. 40 C.F.R. § 63.3542(c)(2) states that if an operating parameter deviates from the operating limit specified in Table 4 to this subpart, then the source must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation, unless the source has other data indicating the actual efficiency of the emission capture system and add-on control device, and the use of these data has been approved by the Administrator.

24. 40 C.F.R. § 63.3547 sets forth the requirements for the installation, operation, and maintenance of continuous parametric monitoring systems (CPMS) for thermal oxidizers and catalytic oxidizers. *See also* 40 C.F.R. § 63.8(c).

25. 40 C.F.R. § 63.3547(a)(5) requires the operation of the CPMS and the collection of emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities.

26. 40 C.F.R § 63.3547(a)(7) states that any period for which the CPMS system is out of control and data are not available for required calculations constitutes a deviation from monitoring requirements.

27. 40 C.F.R. § 63.3511(a) requires the submission of semiannual compliance reports for each affected source. Among other things, an affected source's semiannual compliance reports must include a statement that there were no deviations from the emission limitations during the reporting period, or if there were deviations from the emission limitations during the reporting period, the report must include certain information dependent on the compliance option used. *See also* 40 C.F.R. § 63.10(d)(1).

28. When an affected source opts to comply by using the emission rate without add-on controls option or the emission rate with add-on controls option and there were deviations from the emission limitations during the reporting period, the affected source must include the information listed in 40 C.F.R. § 63.3511(a)(6) and (7) in its semiannual compliance report.

29. The semiannual compliance report required by 40 C.F.R. § 63.3511 must also include an identification of the compliance option or options used on each coating operation during the reporting period, and if the affected source switched compliance options during the reporting period, the report must include the beginning and ending dates for each compliance option used. 40 C.F.R. § 63.3511(a)(3)(iv).

30. 40 C.F.R. § 63.3501 states that Table 5 to Subpart KKKK shows which parts of the General Provisions codified at 40 C.F.R. §§ 63.1 through 63.15 apply to the affected source.

The NESHAP for Surface Coating of Miscellaneous Metal Parts and Products

31. Pursuant to Section 112 of the Act, the EPA promulgated the NESHAP for Surface Coating of Miscellaneous Metal Parts and Products at 40 C.F.R. Part 63, Subpart MMMM, 40 C.F.R. §§ 63.3880-3981, on January 2, 2004. 69 Fed. Reg. 130.

32. The NESHAP at 40 C.F.R. Part 63, Subpart MMMM, applies to owners or operators of existing sources that use 946 liters (250 gallons) per year or more of coatings that contain HAP in the surface coating of miscellaneous metal parts and products and that is a major source of emissions of HAP. 40 C.F.R. §§ 63.3881(a) and (b).

33. 40 C.F.R. § 63.3883(b) provides that the compliance date for existing affected sources is January 2, 2007.

34. 40 C.F.R. § 63.3890(b) requires an existing affected source to limit organic HAP emissions to the atmosphere to the applicable limit specified therein.

35. 40 C.F.R. § 63.3891 provides three separate compliance options that an affected source can use to determine whether its organic HAP emission rate is equal to or less than the applicable emission limit in 40 C.F.R. § 63.3890. Two of the relevant compliance options include: (1) demonstrating that, based on the coatings, thinners and/or other additives, and cleaning materials used in the coating operation(s), the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in 40 C.F.R.§ 63.3890, calculated as a rolling 12-month emission rate and determined on a monthly basis (40 C.F.R. § 63.3891(b), emission rate without add-on controls option); and (2) demonstrating that, based on the coatings, thinners and/or other additives, and cleaning materials used in the coating operation(s), and the emission reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in 40 C.F.R. § 63.3890, calculated as a rolling 12-month emission rate and determined on a monthly basis (40 C.F.R. § 63.3891(c), emission rate with add-on controls option).

36. "Capture system" is defined as "one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings or cleaning materials, both at the point of application and at subsequent points where emissions from the coatings and cleaning materials occur, such as flashoff, drying, or curing." 40 C.F.R. § 63.3981.

37. "Add-on control" is defined as "an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere." 40 C.F.R. § 63.3981.

38. 40 C.F.R. § 63.3891(c) states that when a source elects to comply with emission limits through use of the emission rate with add-on controls compliance option, it must, in addition to demonstrating that its organic HAP emission rate is less than or equal to the applicable emission limit in 40 C.F.R. § 63.3490, demonstrate that all emission capture systems and add-on control devices for the coating operation(s) used for purposes of

complying with Subpart MMMM meet the operating limits required in 40 C.F.R § 63.3892.

39. 40 C.F.R. § 63.3892(b) states that when a source utilizes the emission rate with add-on controls compliance option, the source must meet the operating limits specified in Table 1 of Subpart MMMM and that the operating limits must be established during the initial performance test.

40. 40 C.F.R. Part 63, Subpart MMMM, Table 1, states that when a source utilizes the emission rate with add-on controls compliance option with a thermal oxidizer, the average combustion temperature in each 3-hour block period must not fall below the combustion temperature limit established during the initial performance test.

41. 40 C.F.R. Part 63, Subpart MMMM, Table 1, states that when a source utilizes the emission rate with add-on controls option with a catalytic oxidizer, the average temperature measured just before the catalyst bed in any 3-hour period, and the average temperature difference across the catalyst bed in each 3-hour period, must not fall below the limits established during the initial performance test.

42. 40 C.F.R. § 63.3900(a)(1) provides that a coating operation utilizing the emission rate without add-on controls option, as specified in 40 C.F.R. § 63.3891(b), must be in compliance with the applicable emission limit in 40 C.F.R. § 63.3890 at all times. *See also* 40 C.F.R. § 63.4(a)(1).

43. 40 C.F.R. § 63.3900(a)(2) provides that a coating operation utilizing the emission rate with add-on controls option, as specified in 40 C.F.R. § 63.3891(c), must be in compliance with the applicable emission limit in 40 C.F.R. § 63.3890 and the operating limits for emission capture systems and add-on control devices required by 40 C.F.R. § 63.3892 at all times.

44. 40 C.F.R. § 63.3900(b) provides that an affected source, including all air pollution control and monitoring equipment used to comply with Subpart MMMM, must be operated and maintained in accordance with 40 C.F.R. § 63.6(e)(1)(i).

45. 40 C.F.R. § 63.6(e)(1)(i) provides that the owner or operator must operate and maintain an affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions at all times.

46. 40 C.F.R. § 63.3963(c)(1) states that if an operating parameter is out of the allowed range specified in 40 C.F.R. Part 63, Subpart MMMM, Table 1, it is a deviation from the operating limit and must be reported.

47. 40 C.F.R. § 63.3963(c)(2) states that if an operating parameter deviates from the operating limit specified in Table 1 Subpart MMMM, then the source must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation, unless the source has other data indicating the

actual efficiency of the emission capture system and add-on control device, and the use of these data has been approved by the Administrator.

48. 40 C.F.R. § 63.3968 sets forth the requirements for the installation, operation, and maintenance of continuous parametric monitoring systems (CPMS) for thermal oxidizers and catalytic oxidizers. *See also* 40 C.F.R. § 63.8(c).

49. 40 C.F.R. § 63.3968(a)(5) provides that a source must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities.

50. 40 C.F.R § 63.3968(a)(7) states that any period for which the CPMS is out of control and data are not available for required calculations is a deviation from monitoring requirements.

51. 40 C.F.R. § 63.3920(a) requires the submission of semiannual compliance reports for each affected source. Among other things, an affected source's semiannual compliance reports must include a statement that there were no deviations from the emission limitation during the reporting period, or if there were deviations from the emission limitations during the reporting period, the report must include certain information dependent on the compliance option used. *See also* 40 C.F.R. § 63.10(d)(1).

52. When an affected source opts to comply by using the emission rate without add-on controls option or the emission rate with add-on controls option and there were deviations from the emission limitations during the reporting period, the affected source must include the information listed in 40 C.F.R. § 63.3920(a)(6) and (7) in its semiannual compliance report.

53. The semiannual compliance report required by 40 C.F.R. § 63.3920 must also include an identification of the compliance option or options used on each coating operation during the reporting period, and if the affected source switched compliance options during the reporting period, the report must include the beginning and ending dates for each compliance option used. 40 C.F.R. § 63.3920(a)(3)(iv).

54. 40 C.F.R. § 63.3901 states that Table 2 to Subpart MMMM shows which parts of the General Provisions codified 40 C.F.R. §§ 63.1 through 63.15 apply to the affected source.

Title V Requirements

55. Title V of the Act, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the EPA a permit program meeting the requirements of Title V.

56. In accordance with Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the EPA promulgated regulations implementing Title V of the Act. *See* 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

57. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit. *See also* 40 C.F.R. § 70.7(b).

58. 40 C.F.R. § 70.6(b)(1) provides that Title V permits are federally enforceable and that all terms and conditions in a Title V permit are enforceable by the EPA.

59. 40 C.F.R § 70.2 defines "major source" as, among other things, any stationary source belonging to a single major industrial grouping and that directly emits or has the potential to emit greater than 10 tons per year (tpy) of a single HAP or 25 tpy of all HAP combined. *See also* 42 U.S.C. § 7661(2)(A).

60. The EPA approved of the Illinois' Title V program on December 4, 2001. 66 Fed. Reg. 62946. The approved Illinois Title V program is known as the Illinois Clean Air Act Permit Program (CAAPP).

The Company's Title V Permit

61. The Illinois Environmental Protection Agency (IEPA) issued a CAAPP Permit, Application No.: 95100031 (Title V Permit), to the Facility (listed as Central Can Company, Inc.) on August 29, 2005.

62. On August 26, 2009, Central Can requested that the Title V Permit be amended to list BWAY as the owner of the Facility.

63. On or about September 23, 2009, Central Can submitted an application to renew the Title V Permit for the Facility.

64. Pursuant to Condition 9.14 of the Title V Permit, the terms and conditions of the Title V Permit remain in effect until the issuance of a renewal permit.

65. The significant emission unit in the Title V Permit and its associated emission capture equipment that are relevant to this FOV/NOV are:

Emission Unit	Description	Commenced Construction	Emission Control Equipment
05	Litho Department, Coaters with Ovens	1948	Thorpe Catalytic Incinerator (Lines 2, 3, and 4) and Heat Recovery Incinerator (Line 1)

66. Condition 5.1.1. of the Title V Permit states that the permit is issued based on the source requiring a CAAPP Permit as a major source of Volatile Organic Material (VOM or VOC) and HAP emissions.

67. Condition 7.1.3.d. of the Title V Permit states that the source shall comply with one of three compliance options for VOC emissions when can coating is performed. The options relevant here include: a facility-wide alternative daily emission limitation (Condition 7.1.3.d.i.); or the use of a capture system and control device that provides a minimum 75 percent reduction in overall emissions of VOC and a control device with a 90 percent efficiency (Condition 7.1.3.d.iii.).

68. Condition 7.1.5.b. of the Title V Permit states that the thermal oxidizer combustion chamber shall be preheated and maintained at 1320°F during operation of the affected coating lines. This condition also states that the catalytic oxidizer chamber shall be preheated and maintained at 650°F during operation of the affected coating lines.

69. Condition 7.1.5.d. of the Title V Permit states that the operation of any natural gas fired afterburner and capture system used to comply with 35 Ill. Admin. Code Part 218 is not required during the period of November 1 of any year to April 1 of the following year provided the operation of such devices is not required for the purposes of occupational safety or health or for the control of toxic substances, odor nuisances, or other regulated pollutants.

70. Condition 7.1.8.a. of the Title V Permit states that each afterburner shall be equipped with a continuous temperature indicator and strip chart recorded or disk storage to monitor the afterburner combustion chamber temperature.

71. Condition 7.1.8.b. and Attachment 3, Tables 3 and 4 of the Title V Permit state that the continuous monitoring is required during operation of the thermal oxidizer and catalytic oxidizer.

72. Condition 9.2.1. of the Title V Permit states that the Company must comply with all terms and conditions of the permit and that any noncompliance constitutes a violation of the CAA.

73. Condition 9.2.2. of the Title V Permit states that the Company shall maintain all equipment covered under the permit in such a manner that the performance or operation of such equipment shall not cause a violation of the applicable requirements.

Requirements of the Illinois State Implementation Plan

74. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to the EPA a plan that provides for the implementation, maintenance, and enforcement of primary and secondary National Ambient Air Quality Standards in the state. Upon approval by the EPA, the plan becomes part of the applicable State Implementation Plan (SIP) for the state.

75. On September 9, 1994, the EPA approved the Illinois SIP requirement at Title 35 of the Illinois Administrative Code (Ill. Admin. Code) 218.107 (effective October 11, 1994). 59 Fed. Reg. 46562.

76. 35 Ill. Admin. Code 218.107 provides that the operation of any natural gas fired afterburner and capture system used to comply with 35 Ill. Admin. Code Part 218, Subpart F, is not required during the period of November 1 of any year to April 1 of the following year provided that the operation of such devices is not required for purposes of occupational safety or health, or for the control of toxic substances, odor nuisances, or other regulated pollutants.

77. On May 19, 1998, the EPA approved the Illinois SIP requirement at 35 Ill. Admin. Code 218.204 (effective July 20, 1998). 63 Fed. Reg. 27489.

78. 35 Ill. Admin. Code 218.204 provides that no owner or operator of a coating line shall apply at any time any coating in which the VOC content exceeds the emission limitations listed therein, including the emission limitations for can coating listed in 35 Ill. Admin. Code 218.204(b), except as provided in, *inter alia*, 35 Ill. Admin. Code 218.205 and 218.207.

79. On May 19, 1998, the EPA approved the Illinois SIP requirement at 35 Ill. Admin. Code 218.205 (effective July 20, 1998). 63 Fed. Reg. 27489.

80. 35 Ill. Admin. Code 218.205(c) provides that no owner or operator of a can coating line that is subject to the emission limitations in 35 Ill. Admin. Code 218.204(b) shall operate the can coating line using a coating with a VOC content in excess of the limitations in 35 Ill. Admin. Code 218.204(b) unless the actual daily emissions never exceed the alternative daily emission limitation calculated in accordance with 35 Ill. Admin. Code 218.205(c)(1) and (2).

81. On February 13, 1996, the EPA approved the Illinois SIP requirement at 35 Ill. Admin. Code 218.207(h) (effective April 15, 1996). 61 Fed. Reg. 5511.

82. 35 Ill. Admin. Code 218.207(h) provides that no owner or operator of a can coating line which is equipped with a capture system and control device shall operate the subject coating line unless the requirements in 35 Ill. Admin. Code 218.207(h)(1) or (2) are met.

83. 35 Ill. Admin. Code 218.207(h)(1) provides that an alternative daily emission limitation shall be determined for the can coating operation, i.e., for all of the can coating lines at the source, according to 35 Ill. Admin. Code 218.205(c). Actual daily emissions shall never exceed the alternative daily emission limitation calculated under 35 Ill. Admin. Code 218.207(h)(1).

84. 35 Ill. Admin. Code 218.207(h)(2) requires that a coating line be equipped with a capture system and control device that provide 75 percent reduction in the overall emissions of VOCs from the coating line and the control device has a 90 percent efficiency.

Relevant Factual Background

85. From at least May 1, 2007 to August 21, 2009, Central Can owned and operated a facility located at 3200 South Kilbourn Avenue in Chicago, Illinois (the Facility).

86. On or about August 20, 2009, BWAY acquired all of issued and outstanding shares of Central Can's common stock through a stock purchase agreement.

87. After August 21, 2009, BWAY and/or Central Can operated the Facility.

88. The Company manufactures metal cans and pails at the Facility.

89. The Company operates four coating lines at the Facility (Line Nos. 1-4).

90. The Company periodically uses a thermal oxidizer (i.e., heat recovery incinerator) to control VOC and HAP emissions from Line No. 1 at the Facility.

91. The Company periodically uses a catalytic oxidizer (i.e., fume incinerator (Thorpe)) to control VOC and HAP emissions from Line Nos. 2, 3, and 4 at the Facility.

92. On October 17, 2011, the EPA conducted an inspection at the Facility.

93. On November 8, 2011 and May 7, 2012, the EPA issued information requests to the Company pursuant to Section 114 of the Act, 42 U.S.C. § 7414 (jointly, the information requests).

94. The Company provided responses to the November 8, 2011 information request on January 2, February 3, and February 20, 2012.

95. The Company provided responses to the May 7, 2012 information request on May 24, June 5, and June 21, 2012.

96. In response to the information requests, the Company stated that, from May 1, 2007 through December 31, 2012, the Facility chose to use the compliance options set forth in conditions 7.1.3.d.i. and 7.1.3.d.iii. of the Permit simultaneously.

97. In response to the information requests, the Company stated that the Facility utilized the following compliance options set forth in 40 C.F.R. § 63.3491 on Coating Line Nos. 1 through 4:

Month/Year	**Compliance Option Utilized for 40 C.F.R. § 63.3491**
May 1 to Sept. 30, 2007	c.
Oct. 1 to Dec. 31, 2007	b.
Jan. 1 to April 30, 2008	b.
May 1 to Sept. 30, 2008	c.
Oct. 1 to Dec. 31, 2008	b.
Jan. 1 to April 30, 2009	b.

May 1 to Sept. 30, 2009	c.
Oct. 1 to Dec. 31, 2009	c.
Jan. 1 to Feb. 28, 2010	c.
Mar. 1 to April 30, 2010	b.
May 1 to June 30, 2010	c.
July 1 to Dec. 31, 2010	c.
Jan. 1 to June 30, 2011	c.
July 1 to Dec. 31, 2011	c.
Jan. 1 to March 31, 2012	c.

98. In response to the information requests, the Company stated that the Facility utilized the following compliance options set forth in 40 C.F.R. § 63.3891 on Coating Line Nos. 1 through 4:

Month/Year	**Compliance Option Utilized for 40 C.F.R. § 63.3891**
May 1 to Sept. 30, 2007	c.
Oct. 1 to Dec. 31, 2007	b.
Jan. 1 to April 30, 2008	b.
May 1 to Sept. 30, 2008	c.
Oct. 1 to Dec. 31, 2008	b.
Jan. 1 to April 30, 2009	b.
May 1 to Sept. 30, 2009	c.
Oct. 1 to Dec. 31, 2009	b.
Jan. 1 to Feb. 28, 2010	c.
March 1 to April 30, 2010	b.
May 1 to June 30, 2010	c.
July 1 to Dec. 31, 2010	c.
Jan. 1 to June 30, 2011	c.
July 1 to Dec. 31, 2011	c.
Jan. 1 to March 31, 2012	c.

99. For purposes of establishing the operating limits under 40 C.F.R. § 63.3492(b) and § 63.3892(b), and satisfying the requirements of its Title V Permit, the Company conducted a performance test on the thermal oxidizer and catalytic oxidizer on November 2, 2006 (2006 performance test).

100. The 2006 performance test established the minimum temperatures at the thermal oxidizer (1386 °F) and catalytic oxidizer (649 °F) as well as the minimum temperature difference across the catalyst bed at the catalytic oxidizer (23 °F).

101. The 2006 performance test calculated an average of 80.4% for the destruction efficiency of the catalytic oxidizer.

102. Based on information provided by the Company in response to the information requests, the Company's actual emissions of VOC and HAP at the Facility exceeded the alternative daily emission limitation calculated under condition 7.1.3.d.i. of the Title V Permit on the following 12 days:

Date	Actual Emissions (pounds/day)	Alternative Daily Emission Limitation (pounds/day)
5/16/2010	275.47	236.19
9/16/2010	718.66	708.07
10/4/2010	661.33	476.28
10/9/2010	74.77	38.85
1/28/2011	353.7	329.29
4/16/2011	796.26	759.76
7/7/2011	655.81	601.5
7/8/2011	1,005.38	987.14
7/15/2011	762.52	760.62
7/16/2011	122.16	101.45
10/21/2011	780.01	749.77
2/19/2012	300.63	249.09

103. At various times from May 2007 to September 2011, the Company operated the thermal oxidizer and catalytic oxidizer below the minimum temperatures established in Condition 7.1.5.b. of the Title V Permit.

104. From May 2007 to September 2011, when the Company was utilizing the compliance options set forth in 40 C.F.R. § 63.3490(c) and 40 C.F.R. § 63.890(c), the Company consistently operated the thermal oxidizer below the minimum temperature established during the 2006 performance test.

105. From May 2007 to November 2011, when the Company was utilizing the compliance options set forth in 40 C.F.R. § 63.3490(c) and 40 C.F.R. § 63.890(c), the Company consistently operated the catalytic oxidizer below either the minimum inlet temperature

or the minimum temperature difference across the catalyst bed established during the 2006 performance test.

106. When the Company was utilizing the compliance options set forth in 40 C.F.R. § 63.3490(c) and 40 C.F.R. § 63.890(c), the CPMS was not in operation or no data was provided in response to the information requests for 26 days in 2007, 11 days in 2008, 18 days in 2009, 211 days in 2010, 66 days in 2011, and 1 day in 2012 when at least one of the coating lines was in operation.

107. In the following Semi-Annual Compliance Reports, the Company failed to report all of the deviations from the emission and operating limits as required by 40 C.F.R. § 63.3511(a)(7) and § 63.3920(a)(7):

Date of Semi-Annual Compliance Report	**Compliance Period**
1/31/2008	11/13/2006 – 11/30/2007
1/31/2008	12/1/2007 – 12/31/2007
1/26/2009	11/13/2007 – 11/30/2008
1/26/2009	7/1/2008 – 12/31/2008
7/29/2009	1/1/2009 – 6/30/2009
2/1/2010	7/1/2009 – 12/31/2009

108. The Company failed to perform corrective actions related to the numerous operating parameter deviations and periods of CPMS downtime from 2007 to 2011. In addition, the Company failed to record temperature data in the correct unit of measure for purposes of ensuring compliance with applicable emission limits and statutory requirements in 2011.

Notice and Finding of Violations

Violations of the General Provisions and NESHAPs for Surface Coating of Metal Cans and Surface Coating of Miscellaneous Metal Parts and Products

109. The Company is subject to the requirements of the NESHAPs for the Surface Coating of Cans (40 C.F.R. Part 63, Subpart KKKK) and Surface Coating of Miscellaneous Metal Parts and Products (40 C.F.R. Part 63, Subpart MMMM), and certain General Provisions at 40 C.F.R. §§ 63.1 through 63.15.

110. During the time periods that the company utilized the compliance options set forth in 40 C.F.R. § 63.3491(c) and § 63.3891(c), the Company violated 40 C.F.R. Part 63, Subparts A, KKKK, and MMMM as follows:

a. By operating the thermal oxidizer below the minimum temperature established during the 2006 performance test;

b. By operating the catalytic oxidizer below the minimum inlet temperature or the minimum temperature difference across the catalyst bed established during the 2006 performance test; and

c. By failing to assume that the emission capture systems and add-on control devices were achieving zero efficiency during the time periods that the thermal oxidizer was operated below the minimum temperature, and the catalytic oxidizer was operated below the minimum inlet temperature or the minimum temperature difference across the catalyst bed, established during the 2006 performance test for purposes of documenting compliance with the Facility's emission limits.

111. During the time periods that the company utilized the compliance options set forth in 40 C.F.R. § 63.3491(c) and § 63.3891(c), the Company violated 40 C.F.R. Part 63, Subparts A, KKKK and MMMM, when the CPMS was not in operation or failed to record data for 26 days in 2007, 11 days in 2008, 18 days in 2009, 211 days in 2010, 66 days in 2011, and 1 day in 2012 when at least one of the coating lines was in operation.

112. The Company violated the requirements of 40 C.F.R. Part 63, Subparts A, KKKK, and MMMM, when it failed to include all of the deviations from the emission and operating limits in its semi-annual compliance reports, dated January 31, 2008, January 26, 2009, July 29, 2009, and February 1, 2010.

113. At various times from May 1, 2007 through February 9, 2012, the Company failed to operate and maintain the Facility, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices as required by 40 C.F.R. § 63.6(e)(1).

114. The Company's failures to satisfy the requirements of 40 C.F.R. Part 63, Subparts A, KKKK and MMMM, constitute violations of Section 112 of the Act, 42 U.S.C. § 7412.

Violations of Title V of the Act, the Title V Permit, and the Illinois SIP

115. The Company is a "major source" subject to Title V of the Act and is subject to the above-referenced requirements of the Title V Permit and the Illinois SIP.

116. The Company violated Title V of the Act, the Title V Permit, and the Illinois SIP, when its actual emissions of VOC exceeded the emission limitation set forth in condition 7.1.3.d.i of the Title V Permit on 12 days from May 16, 2010 to February 19, 2012.

117. The Company violated Title V of the Act, the Title V Permit, and the Illinois SIP, when it operated the thermal oxidizer and catalytic oxidizer below the minimum temperatures established in Condition 7.1.5.b. of the Title V Permit at various times from May 2007 to September 2011.

118. The Company violated Title V of the Act, the Title V Permit, and the Illinois SIP, when it failed to operate the CPMS or the CPMS failed to record data for 26 days in 2007, 11 days in 2008, 18 days in 2009, 211 days in 2010, and 1 day in 2012 when at least one of the coating lines was in operation.

119. The Company violated Title V of the Act, the Title V Permit, and the Illinois SIP, when it failed to maintain all equipment covered under the Title V Permit in such a manner that the performance or operation of such equipment would not cause a violation of the applicable requirements.

Environmental Impact of Violations

120. The Company's violations of the above-referenced NESHAPs resulted in increased emissions of HAPs, including, but not limited to, antimony, bis(2-ethylhexyl) phthalate, dichloromethane, glycol ethers, dimethyl formamide, ethyl benzene, ethylene glycol, formaldehyde, methanol, methyl isobutyl ketone, naphthalene, phenol, toluene, xylenes, and isophorone. Violation of the above-referenced NESHAPs may cause serious health effects including birth defects and cancer. HAP emissions may also cause harmful environmental and ecological effects.

121. VOC, along with NO_x, are major precursors in the formation of atmospheric and ground-level ozone, a photochemical oxidant associated with a number of detrimental health effects, including birth defects and cancer, and environmental and ecological effects. In the presence of sunlight, and influenced by a variety of meteorological conditions, VOC and HAP react with oxygen in the air to produce ozone. Although ozone's precursors are naturally occurring in the environment, their existence is greatly enhanced in and around urban areas, such as Chicago, by anthropogenic contributions.

122. Ozone is one of six listed criteria pollutants targeted for control under the CAA by the establishment of a National Ambient Air Quality Standard. Its human health effects are largely associated with decreased respiratory function, even among healthy individuals. Accompanying symptoms from exposure may include sore throat, tightness or pain on breathing, coughing, and headache. Those with asthma or other underlying respiratory ailments may be at higher risk for adverse effects from ozone exposure. Aside from its human health impact, ozone can prove harmful to crops and vegetation and can cause materials such as rubber to prematurely degrade. As a component in "smog," ozone contributes to decreased visibility in polluted areas.

9/4/12

Date

George T. Czerniak
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-12-IL-13, by Certified Mail, Return Receipt Requested, to:

David M. Leber, Plant Manager
BWAY Corporation
3200 South Kilbourn Avenue
Chicago, Illinois 60623

William Thomas
Central Can Company, Inc.
3200 South Kilbourn Avenue
Chicago, Illinois 60623

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first-class mail to:

Ray Pilapil, Manager
Bureau of Air, Compliance and Enforcement Section
Illinois Environmental Protection Agency
P.O. Box 19506
Springfield, Illinois 62794

On the 6th day of September 2012.

Daneshia Hamilton
Administrative Program Assistant
AECAB, PAS Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7669 7071 (David Leber)
7009 1680 0000 7669 7095 (William Thomas)