UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

MAR 17 2015

David Glendon, President and CEO
Sprague Operating Resources, LLC
185 International Drive
Portsmouth, NH 03801

Re: Notice of Violation; Everett, Massachusetts

Dear Mr. Glendon:

The U.S. Environmental Protection Agency, Region 1 ("EPA") is issuing Sprague Operating Resources, LLC ("Sprague") the enclosed Notice of Violation ("NOV") for violations of the Clean Air Act.

The NOV addresses EPA's findings that Sprague has violated and is still in violation of requirements in the Massachusetts state implementation plan regarding stationary source construction and operation, including certain new source review provisions. The violations occurred at Sprague's facility located in Everett, Massachusetts.

You may confer with EPA about the enclosed NOV and its findings. To schedule a conference, please contact Elizabeth Kudarauskas of my staff at (617) 918-1564 or have your legal counsel contact Thomas Olivier of my staff at (617) 918-1737 within fourteen (14) days of your receipt of this letter and the enclosed NOV.

Sincerely,

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship

Enclosure

cc: Susan Ruch, Mass DEP, NERO
John Keating, Mass DEP, NERO
Dixon Pike, Esq.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I – NEW ENGLAND

IN THE MATTER OF

Sprague Operating Resources, LLC 43 Beacham Street Everett, MA 02149	)	**NOTICE OF VIOLATION**
Proceeding under Section 113 of the Clean Air Act	)	

STATUTORY AUTHORITY

1. The United States Environmental Protection Agency, Region I ("EPA") issues this Notice of Violation ("NOV") under the authority of Section 113(a) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(a), to Sprague Operating Resources, LLC ("Sprague"). The violations occurred at Sprague's facility located in Everett, Massachusetts ("the Everett Facility"). This NOV identifies violations of plan approval and emission limitation requirements of the Massachusetts state implementation plan ("SIP").

2. The Massachusetts SIP includes various federally-approved portions of the Air Pollution Control Regulations promulgated by the Massachusetts Department of Environmental Protection ("MassDEP") at 310 CMR 7.02, including requirements for plan approval and emission limitations.[1] These requirements are enforceable by EPA under Section 113 of the Act.

3. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), requires that whenever EPA

[1] The SIP, which consists of federally-enforceable provisions of the Massachusetts Air Pollution Control Regulations, can be found on EPA's website at http://www.epa.gov/region1/topics/air/sips/sips_ma.html

finds that any person has violated or is in violation of any requirement or prohibition of an applicable SIP, EPA shall notify the person of such finding.

FACTUAL BACKGROUND

4. Sprague operates a bulk petroleum storage and distribution facility in Everett, Massachusetts. The Everett facility stores and distributes asphalt, processes that emit volatile organic compounds ("VOCs").

5. In February 2001, Sprague purchased the Everett facility.

6. Asphalt operations at the Everett facility had been shut down by the prior owner in 1997.

7. As of June 2002, to place the terminal back in service, Sprague performed repairs and maintenance to tanks and piping, and replacement of the heat plant and building.

8. Sprague reactivated asphalt operations at the Everett facility approximately in June 2002, having spent over $ 4,750,000 on repairs, maintenance, and replacement of the heating plant and building.

9. On December 23, 2010, September 27, 2011, and March 29, 2012, EPA issued Clean Air Act Reporting Requirements to Sprague.

10. Sprague submitted timely responses to the Reporting Requirements.

11. On September 27, 2011, EPA issued a Clean Air Act Testing Order and Reporting Requirement to Sprague.

12. In response to the Testing Order and Reporting Requirement, Sprague submitted a Test Protocol that was conditionally approved by EPA on May 3, 2012.

13. Sprague completed VOC and HAP emissions testing for #6 oil at its Searsport Facility on July 13, 2012, and submitted a test report on October 19, 2012. Sprague completed VOC and HAP emissions testing for asphalt at its Searsport Facility on May 22, 2012, and submitted a final test report on July 31, 2013.

14. Based on the results of the asphalt testing at the Searsport facility, Sprague's Everett facility has potential VOC emissions from asphalt operations of 35 tons per year.

LEGAL FINDINGS AND NOTICE OF VIOLATIONS

15. The Massachusetts SIP, at 310 CMR 7.02(2)(a), provides that no person shall construct, substantially reconstruct, or alter any regulated facility unless the plans for such facility have been submitted to the Massachusetts Department of Environmental Protection ("MassDEP") for approval.

16. The SIP at 310 CMR 7.02(2)(a)(6) requires the installation of best available control technology ("BACT") for any proposed construction or substantial reconstruction of a facility.

17. Through its repairs and maintenance of the facility in 2002, and its construction of a new heat plant and building, Sprague constructed, substantially reconstructed, and altered its Everett facility without applying for a plan approval from the MassDEP.

18. By reactivating the facility for asphalt operations in 2002, after over four years of shutdown, Sprague constructed, substantially reconstructed, and altered its Everett facility without applying for a plan approval from the MassDEP.

19. To date, Sprague has not applied for and obtained a plan approval from the

MassDEP for the Everett facility, and has not installed and implemented BACT. Accordingly, Sprague has violated and continues to violate the SIP at 310 CMR 7.02.

ENFORCEMENT

20. EPA may take any or all of the following actions: 1) issue an order requiring compliance with the Act; 2) issue an administrative penalty order; or 3) bring a civil action in federal district court for an injunction and/or monetary penalties up to $37,500 per day for each violation. See Sections 113(a), (b) and (d) of the Act, 42 U.S.C. §§ 7413(a), (b) and (d), and 40 C.F.R. Part 19 as amended by 73 Fed. Reg. 75340-46 (Dec. 11, 2008) (Clean Air Act judicial and administrative penalties raised from $25,000 to $37,500 effective January 12, 2009). Be advised that Section 113(e)(2) of the Act, 42 U.S.C. § 7413(e)(2), contains provisions that affect the burden of proof with respect to violations which continue or recur on or after the date of issuance of this NOV.

21. If Sprague has knowingly violated the requirements of the Act, Sprague and its responsible corporate officers may be subject to criminal penalties under Title 18 of the United States Code, imprisonment for not more than five years, or both. See Section 113(c) of the Act, 42 U.S.C. § 7413(c).

22. The issuance of this NOV does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address these violations.

OPPORTUNITY TO CONFER

23. If Sprague has any questions regarding this NOV, please contact environmental

engineer Elizabeth Kudarauskas at (617) 918-1564, or have your legal counsel contact Thomas T. Olivier, Enforcement Counsel, at (617) 918-1737. Sprague may request an opportunity to confer with EPA by contacting Ms. Kudarauskas or Mr. Olivier at the phone numbers listed above.

EFFECTIVE DATE AND APPLICABILITY

24. This NOV is effective as of the date signed below and applies to Sprague and its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Sprague. This NOV is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship
U.S. Environmental Protection Agency
Region I – New England

03/13/15
Date