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

JAN 13 2011

CERTIFIED MAIL
RETURN RECEPIT REQUESTED

Mike Ashar, President
Irving Oil
190 Commerce Way
Portsmouth, New Hampshire 03801

URGENT LEGAL MATTER
REQUIRES PROMPT RESPONSE

Re: Reporting Requirement and Testing Order for Information Under Section 114 of the Clean Air Act, 42 U.S.C. § 7414(a)

Dear Mr. Ashar:

This reporting requirement is part of an EPA investigation to determine whether Irving Oil (Irving) has violated sections of the Clean Air Act (Act), 42 U.S.C. § 7401 et seq., at its terminal locations in New England.

EPA issues this reporting requirement pursuant to Section 114 of the Act, 42 U.S.C. § 7414. Under Section 114, EPA may require any person who is subject to any requirement of the Act to: establish records; make reports; sample emissions at the location and in the manner prescribed by EPA; and provide other information that EPA requires.

Reporting Requirement
Pursuant to this authority, EPA directs you to provide the following information within 60 days of receipt of this letter.

1. Provide the following information about Irving:
    a. Describe the ownership and business structure;
    b. Indicate the date and state of incorporation;
    c. List any partners or corporate officers;
    d. List any parent and subsidiary corporations;
    e. Provide the net worth of the company.

2. For each Irving facility located in New England that purchases, stores, or distributes petroleum products, other than retail gasoline or diesel outlets:
    a. Identify the types of fuels or petroleum products that are stored at each facility;
    b. Provide a facility map, drawing, or schematic that identifies each tank and the type of material stored;

c. Provide a facility map, drawing, or schematic that identifies the location of any barge or truck loading systems.

3. Identify the Irving facilities located in New England that currently are capable of storing and/or distributing residual fuel oil (#6 oil) and/or asphalt products. For each facility that currently is capable of storing and/or distributing residual fuel oil (#6 oil) and/or asphalt products:
   a. Provide the number of #6 oil and the number of asphalt storage tanks and the storage capacity (in gallons or barrels) of each tank;
   b. Provide the date that each #6 oil and asphalt tank became operational;
   c. Provide the total annual throughput of # 6 oil and the total annual throughput of asphalt products for each facility from 2006 to 2010 (in gallons and barrels);
   d. Describe how #6 oil and asphalt products are delivered to each Irving facility (by truck, rail and/or vessel);
      i. If truck deliveries, provide the number of truck deliveries and type and quantity of material per year since January 1, 2006.
      ii. If rail deliveries, provide the number of deliveries, type and quantities per year since January 1, 2006.
      iii. If vessel deliveries, provide the number of deliveries, type and quantities per year since January 1, 2006.
   e. Provide the date, suppliers name, and originating refinery of each shipment of #6 oil or asphalt received at the facility since January 1, 2006;
   f. Describe how #6 oil and asphalt products are shipped offsite (by truck, rail and/or vessel);
      i. If shipped offsite by truck, provide the number of truck deliveries and type and quantity of material per year since January 1, 2006.
      ii. If shipped by rail offsite, provide the number of shipments, type and quantities per year since January 1, 2006.
      iii. If shipped by vessel offsite, provide the number of shipments, type and quantities per year since January 1, 2006.

The following questions, numbered 4 through 11 relate to any facility owned or operated by Irving (not limited to New England facilities):

4. Provide sampling protocols, test results, and analysis for any "grab sample" composition testing (e.g., high heating value, specific gravity, sulfur content, hydrocarbon content, speciation testing, etc.) performed on shipments of #6 oil and/or asphalt to the facility since January 1, 2000.

5. Provide the sampling protocols, test results, and analysis of any air emissions testing from #6 oil storage tank vents or "head space" above the oil or asphalt.

6. Provide the sampling protocols, test results, and analysis of any air emissions testing from #6 oil and asphalt vessel loading and truck loading operations.

7. Provide any calculations used to estimate annual or short term volatile organic compounds ("VOC") and hazardous air pollutants ("HAP") emissions from #6 oil and asphalt at any facility, including loading and unloading operations, storage tanks, material transfer (e.g., piping, pumps, etc.), wastewater, stormwater collection systems, or any other equipment used to handle #6 oil or asphalt at the facility.

8. Provide copies of all correspondence Irving has had with state and federal environmental agencies regarding emissions from #6 oil and asphalt storage, transfer, or distribution, including copies of:
   a. All permits issued;
   b. All permit applications;
   c. All emission statements; and
   d. Any requests for permit modifications.

9. Provide any information from the suppliers regarding hydrocarbon composition and content of #6 oil and asphalt received by the facility since January 1, 2000.

10. For Irving customers located in New England that have purchased one million gallons or more per year of #6 oil or asphalt since January 1, 2006, provide the customer name, facility address, and quantity of #6 oil and asphalt purchased each year from 2006 to 2010.

11. Provide all information that Irving has which identifies and/or describes any changes in the formulation of #6 oil and/or asphalt.

Testing Order

This Testing Order requires Irving to sample tanks of #6 oil and asphalt for VOC and HAP content at all facilities owned or operated by Irving in New England. This Testing Order also requires Irving facilities located in New England to sample any new shipments of #6 oil and asphalt for VOC and HAP content that are received until July 1, 2011.

12. Within 14 days of receipt of this Testing Order, Irving shall submit to EPA a proposed protocol for sampling #6 oil and asphalt for VOC and HAP content. Irving must collect #6 oil and asphalt samples from tanks through July 1, 2011, as described in item 14, below.
    a. Samples shall be collected in accordance with EPA's Office of Solid Waste and Emergency Response ("OSWER") Directive 9360.4-07 issued January 1991 titled "Compendium of ERT Waste Sampling Procedures."
    b. Proper chain of custody procedures shall be followed for sample collection as described in the OSWER Directive 9360.4-07, including, but not limited to, labeling each sample with sample date, time and location, and securing samples until they are received by the laboratory.
    c. The samples shall be analyzed by an independent laboratory using methods contained in "Test Methods for Evaluating Solid Waste,

Physical/Chemical Methods" ("SW-846"). Specifically, EPA Method 8260B shall be used to determine VOC and HAP content in the sample.

d. Based on discussions with Sprague or a review of the information submitted in response to the above Reporting Requirement, EPA may revise the sampling scenario.

13. Within 30 days of receipt of this Testing Order, Irving shall revise and resubmit the sampling protocol in accordance with any written EPA comments or required changes. EPA shall approve, approve with conditions, or disapprove Irving's test protocol in writing.

14. Within 45 days of receipt of this Testing Order, Irving shall collect samples of #6 oil and asphalt from all tanks at New England facilities and have them analyzed for VOC and HAP content. Through July 1, 2011, Irving shall sample all new shipments of #6 oil and asphalt within 7 days of delivery to determine VOC and HAP content. No sampling shall be conducted without an approved protocol.

15. Within 30 days of collecting each sample, Irving shall submit a report of VOC and HAP concentration data to EPA. Each report must include:

    a. Date and time of sample collection;
    b. Temperature of sample at time of collection;
    c. Location of sample collection (facility name and tank identification);
    d. A description of any deviations from sampling or analysis techniques described in the protocol;
    e. Identify the date, supplier's name, and originating refinery of each batch of #6 oil or asphalt that is sampled by the facility.

Submissions required by this letter shall be mailed to the following:

Elizabeth A. Kudarauskas
US EPA Region I
5 Post Office Square, Suite 100
Mail Code: OES-04-2
Boston, Massachusetts 02109-3912

EPA may choose to require Irving to conduct future emissions testing of VOC and HAP emissions from the storage and distribution of #6 oil and asphalt. If such additional testing is required, EPA will provide written notice to Irving.

Be aware that if Irving does not provide all the information required under the Reporting Requirement in a timely manner, fails to timely submit a test protocol in accordance with EPA's requirements, fails to conduct the required emissions test in a timely manner, or fails to submit a timely and complete test report, EPA may order it to comply and may assess monetary penalties under Section 113 of the Act, 42 U.S.C. § 7413. Note that federal law also establishes criminal penalties for providing false information to EPA.

This letter is not subject to Office of Management and Budget review pursuant to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

Irving may, if desired, assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R §2.203(b). Note that certain categories of information, such as emissions data, are not properly the subject of such a claim. If no such claim accompanies the information when it is received by EPA, the information may be made available to the public by EPA without further notice to Irving. Please be aware that states may have different rules and regulations governing the protection of confidential business information.

If you have any questions regarding this Reporting Requirement and Testing Order, please contact Environmental Engineer Elizabeth Kudarauskas, at (617) 918-1564, or have your attorney call Senior Enforcement Counsel Thomas Olivier at (617) 918-1737.

Sincerely,

Susan Studlien

Susan Studlien, Director
Office of Environmental Stewardship

Enclosure

cc: Pamela Monroe, NH DES
Kurt Tidd, ME DEP
Ed Pawlowski, MA DEP Northeast Regional Office
Christian Jones, VT DEC