



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Robert R. Scott, Commissioner

Freudenberg-NOK General Partnership
47690 East Anchor Court
Plymouth, MI 48170

Re: 450 Pleasant Street, Bristol, NH
State Permit to Operate #SP-0205
AFS #3300900002

**ADMINISTRATIVE FINE
BY CONSENT**

No. AF 23-003

I. INTRODUCTION

This Administrative Fine by Consent is entered into by and between the New Hampshire Department of Environmental Services, Air Resources Division, and Freudenberg-NOK General Partnership, pursuant to RSA 125-C:15, and RSA 125-I:3-a. This Administrative Fine by Consent is effective upon signature by the parties, and acceptance by the Commissioner.

II. PARTIES

1. The Department of Environmental Services, Air Resources Division is a duly constituted administrative agency of the State of New Hampshire, having its main office at 29 Hazen Drive in Concord, New Hampshire.
2. Freudenberg-NOK General Partnership ("Freudenberg-NOK") is a foreign partnership registered to do business in the State of New Hampshire. Freudenberg-NOK General Partnership owns the registered trade name *Freudenberg-NOK Sealing Technologies*. The principal office and mailing address of Freudenberg-NOK is 47690 East Anchor Court, Plymouth, MI 48170.

III. BACKGROUND

1. RSA chapter 125-C authorizes the New Hampshire Department of Environmental Services ("NHDES") to regulate sources of air pollution in New Hampshire. RSA 125-C:4 authorizes the Commissioner of NHDES to adopt rules relative to the prevention, control, abatement, and limitation of air pollution in New Hampshire. Under this authority, the Commissioner has adopted NH CODE ADMIN. RULES Env-A 100 *et seq.* (the "Air Program Rules").
2. RSA 125-C:15, I-b, authorizes the Commissioner of NHDES to impose administrative fines up to \$4,000¹ for each offense upon any person who violates any provision of RSA chapter 125-C, the Air Program Rules, any permit, compliance schedule, stop use order, or order of abatement, issued under the authority of RSA chapter 125-C; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be

¹ The Commissioner's administrative fine authority for violations of RSA chapter 125-C increased from \$2,000 to \$4,000 per violation effective January 1, 2020.

submitted to NHDES in accordance with RSA chapter 125-C or the Air Program Rules. RSA 125-C:15, I-b(d) states that each day of a violation shall constitute a separate offense.

3. RSA 125-C:6 and RSA 125-C:11, I, authorize NHDES to establish and operate a statewide system under which permits shall be required for the construction, installation, operation or material modification of air pollution devices and sources. In accordance with this authority, the Commissioner of NHDES has adopted NH CODE ADMIN. RULES Env-A 600 to regulate a statewide permit system.

4. RSA chapter 125-I authorizes NHDES to regulate the release of toxic chemicals into the ambient air in New Hampshire. RSA 125-I:3, II, authorizes the Commissioner of NHDES to adopt rules relative to the prevention, control, abatement, and limitation of regulated toxic air pollutant ("RTAP") emissions.

5. The Commissioner has adopted NH CODE ADMIN. RULES Env-A 1400, in accordance with RSA 125-I:3, II (the "RTAP Rules").

6. RSA 125-I:5, I, states that no person shall operate any device or process at a stationary source that emits an RTAP without a temporary or operating permit issued by NHDES in accordance with RSA chapter 125-I or RSA chapter 125-C; provided, however that no permit or permit application shall be required for any device or process at a stationary source exempted under RSA 125-I:3, III, or whose uncontrolled emissions of RTAPs do not exceed ambient air limits ("AALs") at or beyond the compliance boundary and for which no other permit is required under RSA chapter 125-C.

7. RSA 125-I:2, IX, defines *device* as any burner, furnace, machine, equipment, or article which emits an RTAP or air contaminant into the ambient air.

8. RSA 125-I:3-a authorizes the Commissioner of NHDES to impose administrative fines up to \$4,000 per offense for violations of RSA chapter 125-I, any rule adopted pursuant to RSA chapter 125-I, or any permit or order issued pursuant to RSA chapter 125-I; or upon any person who makes or certifies a material false statement relative to any document or information which is required to be submitted to the department pursuant to RSA chapter 125-I or any rule adopted pursuant to RSA chapter 125-I. RSA 125-I:3-a, II, requires the Commissioner to determine fines in accordance with RSA 125-C:15, I-b(b) and (d).

9. RSA 125-I:5, V, and Env-A 1405.01(a), require the owner or operator of any device or process that emits an RTAP to determine compliance with the AALs by using one of the methods listed in Env-A 1405.01. When the airflow exiting the vent or stack is vertical and unobstructed, the *de minimis* and the *adjusted in-stack concentration* methods are also authorized methods to demonstrate compliance per Env-A 1405.01.

10. Env-A 1401.02 states that the rules set out in Env-A 1400 apply to the owner or operator of any new, modified, or existing process or device located at a stationary source that emits an RTAP into ambient air, unless exempt.

11. Env-A 1201.01 states that the purpose of Env-A 1200 is to establish requirements for the implementation of reasonably available control technology (“RACT”) on certain stationary source categories located in New Hampshire that emit volatile organic compounds (“VOCs”).
12. Env-A 1220 requires the owner or operator of a source whose miscellaneous industrial adhesive and adhesive primer application processes, including related cleaning activities, have combined actual emissions, before controls, that equal or exceed 3 tons per consecutive 12-month period of VOCs, on and after January 1, 2016; to comply with certain VOC emission limits, application methods, and work practices.
13. Env-A 1220.02 requires the owner or operator to control VOC emissions by using an adhesive that complies with the VOC content limits in Table 1220-1, as measured by the mass of VOC per volume of adhesive or adhesive primer excluding water and exempt compounds for the adhesives being applied; or achieve an overall VOC emission control efficiency of at least 85% using add-on controls; or a combination of both.
14. Freudenberg-NOK owns and operates a manufacturing facility located at 450 Pleasant Street in Bristol, New Hampshire, that includes processes that apply adhesive and non-adhesive coatings to metal parts, among other processes (the “Facility”).
15. Processes at the Facility emit VOCs and hazardous air pollutants (“HAPs”) in amounts that are above major source thresholds on a *potential to emit* basis and subject to emission limits to establish the Facility as a synthetic minor source of air pollution for VOCs and HAPs.
16. The adhesive application process at the Facility emits VOCs above the applicability threshold in Env-A 1220 of 3 tons per year on an actual basis and, therefore, is required to comply with certain requirements in Env-A 1220.
17. On May 3, 2017, NHDES received from Freudenberg-NOK an application for renewal of State Permit to Operate No. SP-0205 (the “Permit”). Freudenberg-NOK included with its application an air pollution control monitoring plan. In its monitoring plan, Freudenberg-NOK stated that the process designated as “EU01” in the Permit is interlocked with “PCE01” such that EU01 operations are terminated when the combustion temperature in PCE01 falls below the minimum temperature setpoint.
18. On April 18, 2019, NHDES reissued the Permit to Freudenberg-NOK authorizing the continued operation of solvent-based, adhesive coating devices collectively designated as EU01 and a water based adhesive application device designated as “EU02” at the Facility. Freudenberg-NOK operates a regenerative thermal oxidizer (“RTO”) at the Facility, designated as PCE01 in the Permit, to control emissions of VOCs and HAPs from EU01.
19. The Permit expires on April 30, 2024.
20. The Permit, at Condition III, Table 2 requires Freudenberg-NOK to operate PCE01 at all times when EU01 is in operation.

21. Env-A 604.02(a)(1) and the Permit at Condition V, Table 3, Item 1(a) require Freudenberg-NOK to limit VOC emissions from EU01 and EU02 to 45 tons in any consecutive 12-month period.

22. Env-A 604.02(a)(1) and the Permit at Condition V, Table 3, Item 1(b) require Freudenberg-NOK to limit HAP emissions from EU01 and EU02 to 8 tons in any consecutive 12-month period for any single HAP and 23 tons per year for all HAPs in any consecutive 12-month period.

23. Env-A 604.01 and the Permit at Condition V, Table 3, Item 6 require Freudenberg-NOK to always operate PCE01 at or above 1,500 degrees Fahrenheit when EU01 is in operation and to maintain PCE01 in accordance with the Air Pollution Control Equipment Monitoring Plan submitted with the renewal application evaluated to reissue the Permit.

24. Env-A 810.01 and the Permit at Condition VIII, Table 6, Item 4 require Freudenberg-NOK to monitor and maintain PCE01 according to the Air Pollution Control Equipment Monitoring Plan submitted with the renewal application and to revise said plan within 30 days of any changes.

25. Env-A 1220.02(e) and the Permit at Condition V, Table 3, Item 7 require Freudenberg-NOK to control VOC emissions from EU01 and EU02 by at least 85% on a daily basis.

26. RSA 125-C:6, XI; Env-A 906; Env-A 911.03(b) and the Permit at Condition VI, Table 4, Item 2(a) require Freudenberg-NOK to always monitor the temperature in the combustion chamber of PCE01 when EU01 is in operation.

27. RSA 125-C:6, XI; Env-A 906; Env-A 911.03(b) and the Permit at Condition VI, Table 4, Item 2(b) require Freudenberg-NOK to have an interlock in place that shuts down EU01 when PCE01 does not operate at or above 1,500 degrees Fahrenheit.

28. On October 8, 2022, Freudenberg-NOK provided to NHDES an initial notification that PCE01 malfunctioned and did not maintain the minimum combustion temperature during the period of October 1-8, 2022, when EU01 was in operation.

29. On October 13, 2022, Freudenberg-NOK provided a written permit deviation report as a follow-up to the initial notification received on October 8, 2022. In its deviation report, Freudenberg-NOK stated that the analog interface card that controlled the fuel flow to PCE01 failed, preventing the system from maintaining the minimum required operating temperature. The alarm system also failed to notify plant personnel that PCE01 was not operating at or above the required minimum temperature during the period of October 1-8, 2022.

30. During a review of the permit deviation report submitted by Freudenberg-NOK, NHDES determined that Freudenberg-NOK failed to operate the regenerative thermal oxidizer at the Facility for 176 hours during the deviation period when EU01 had operated. According to the report, PCE01 operated at approximately 100 degrees Fahrenheit during the deviation period. Further, NHDES determined that Freudenberg-NOK emitted 6.766 tons of excess VOC emissions during the deviation period based on information in the permit deviation report dated October 13, 2022.

31. On October 20, 2022, NHDES requested that Freudenberg-NOK provide a compliance demonstration per Env-A 1400 for the deviation period. NHDES also requested that Freudenberg-NOK provide an emissions report for the period of November 31, 2021, through October 31, 2022, showing the actual emissions of VOCs and HAPs.

32. On December 1, 2022, NHDES received from Freudenberg-NOK a demonstration that the Facility did not exceed the 12-month rolling HAP or VOC limits in the Permit for the 12-month period that included the deviation period. In its correspondence, Freudenberg-NOK also provided a compliance demonstration per Env-A 1400 demonstrating that the emissions from EU01/PCE01 did not exceed any AALs during the deviation period.

33. On February 17, 2023, NHDES notified Freudenberg-NOK that the deviation period fit the criteria for designating the excess emissions violations as a federally reportable violation under EPA policy. Subsequently, Freudenberg-NOK determined that the duration of the deviation period was overestimated in the permit deviation report dated October 13, 2022, and that a revision to the estimate of excess emissions would be provided.

34. On March 13, 2023, Freudenberg-NOK provided information showing that PCE01 was offline for 176 hours, but that EU01 only operated for 133 hours during the period of October 2-8, 2022, and emitted only 5.6 tons of VOCs instead of the originally reported 6.766 tons of excess VOCs.

35. On April 6, 2023, Freudenberg-NOK provided an update on the amount of excess VOC emissions during the deviation period. Freudenberg-NOK stated that the revised excess emissions estimate of 5.6 tons provided on March 13, 2023, is accurate since the calculations used to estimate excess emissions were based on the amount of adhesive applied assuming no controls, which is independent of the time that PCE01 was offline. The manager of the Facility stated that the interlock failed to operate due to the absence of code in the control algorithm that would terminate manufacturing operations when PCE01 falls below the required operating temperature. Freudenberg-NOK corrected the malfunction by adding the necessary code in the control algorithm. The manager of the Facility asserted that the cause of the malfunction will not reoccur because the control algorithm will now terminate manufacturing operations when PCE01 falls below the required operating temperature.

IV. ALLEGATIONS

1. Freudenberg-NOK violated Env-A 604.01 and the Permit at Condition V, Table 3, Item 6 by operating PCE01 below 1,500 degrees Fahrenheit for 133 hours during the period of October 2-8, 2022. The Air Resources Division ("ARD") has determined the violation to be a major deviation from the requirement with a moderate potential for harm for which RSA 125-C:15, I-b(b)(8) specifies a potential fine range of \$1,251 to \$3,500. For settlement purposes only, ARD proposes a fine of \$2,500 for this violation.

2. Freudenberg-NOK violated Env-A 1220.02(e) and the Permit at Condition V, Table 3, Item 7 by not reducing uncontrolled VOC emissions from EU01, EU02 and PCE01 by at least 85% on a daily basis for seven days during the period of October 2-8, 2022. ARD has determined the violation to be a major deviation from the requirement with a major potential for harm for which RSA 125-C:15, I-b(b)(9) specifies a potential fine range of \$1,501 to \$4,000. Each day is a separate offense.

For settlement purposes only, ARD proposes a fine of \$2,000 for each violation day for a total of \$14,000 for these violations.

3. Freudenberg-NOK violated RSA 125-C:6, XI; Env-A 906; Env-A 911.03(b); and the Permit at Condition VI, Table 4, Item 2(a) by not monitoring and recording the temperature in the combustion chamber of PCE01 when EU01 was in operation, for seven days during the period of October 2-8, 2022. ARD has determined the violation to be major deviation from the requirement with a moderate potential for harm for which RSA 125-C:15, I-b(b)(8) specifies a potential fine range of \$1,251 to \$3,500. For settlement purposes only, ARD proposes a fine of \$2,500 for this violation.

4. Freudenberg-NOK violated RSA 125-C:6, XI; Env-A 906; Env-A 911.03(b); and the Permit at Condition VI, Table 4, Item 2(b) by not having the interlock in place that shuts down EU01 when PCE01 does not operate at or above 1,500 degrees Fahrenheit seven days during the period of October 2-8, 2022. ARD has determined the violation to be a major deviation from the requirement with a moderate potential for harm for which RSA 125-C:15, I-b(b)(8) specifies a potential fine range of \$1,251 to \$3,500. For settlement purposes only, ARD proposes a fine of \$2,500 for this violation.

V. ADMINISTRATIVE FINES, PAYMENT, WAIVER OF HEARING

1. Freudenberg-NOK agrees to pay the proposed fine to NHDES in the amount of \$21,500, in a lump sum payment, due upon the execution of this Administrative Fine by Consent ("Agreement") by an authorized representative of Freudenberg-NOK.

2. Payment pursuant to the preceding paragraph shall be paid by check made payable to *Treasurer, State of New Hampshire* and mailed to: NHDES Legal Unit, **Attn: Atty. Barnsley**, P.O. Box 95, Concord, NH 03302-0095.

3. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to RSA 6:11-a, NHDES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

4. The parties have entered into this Agreement to avoid the time and cost of litigation. By executing this Agreement, Freudenberg-NOK waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction. Other than this enforcement action or any action that may be necessary to enforce this Agreement, NHDES shall pursue no further administrative action against Freudenberg-NOK relative to the allegations contained herein. In any proceeding to enforce this Agreement, Freudenberg-NOK agrees not to challenge the validity of any provision of this Agreement. This Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by Freudenberg-NOK under Federal, State, common or local law; (ii) an admission of fact by Freudenberg-NOK or evidence of such or an admission of any violation of any law, rule, regulation, policy or regulatory interpretation; or (iii) a waiver of any defense Freudenberg-NOK might raise in any third party proceeding.

