



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

MAY 6 2014

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Scott Pryde
Environmental Health and Safety Manager
The Hillshire Brands Company
2314 Sybrandt Road
Traverse City, Michigan 49684

Re: Notice and Finding of Violation
The Hillshire Brands Company
Traverse City, Michigan

Dear Mr. Pryde:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to The Hillshire Brands Company (you) under Section 113(a) of the Clean Air Act, 42 U.S.C. § 7413(a). We find that you are violating Title V of the Clean Air Act and the Michigan State Implementation Plan (SIP), at your Traverse City, Michigan facility.

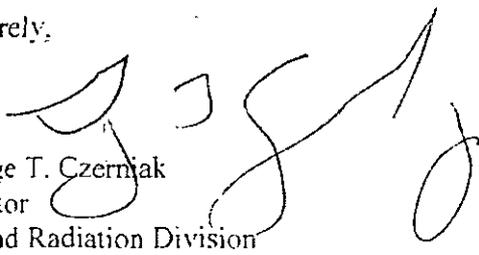
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Bonnie Bush. You may call her at (312) 353-6684 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,


George T. Czerniak
Director
Air and Radiation Division

Enclosure

cc: Janis Denman, Cadillac District Supervisor, MDEQ
Thomas Hess, Enforcement Unit Supervisor, MDEQ

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
The Hillshire Brands Company) NOTICE and FINDING OF VIOLATION
Traverse City, Michigan) EPA-5-14-MI-08
)
)
Proceedings Pursuant to)
the Clean Air Act, 42 U.S.C.)
§ 7413(a)(1) and (3))
)

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice and Finding of Violation (NOV/FOV) under Section 113(a)(1) and (3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (3) (Act). EPA finds that The Hillshire Brands Company ("Hillshire" or "you") is violating the Title V of the Act and the Michigan State Implementation Plan (SIP) at your Traverse City, Michigan, facility as follows:

Statutory and Regulatory Background

Title V

1. Title V of the Act, 42 U.S. C. §§ 7661-7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources.
2. 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.
3. 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 100 tons per year (tpy) or more of any air pollutant subject to regulation. *See also* 42 U.S. C. § 7661(2)(A).
4. 40 C.F.R. § 70.2 defines "regulated air pollutant" as, among other things, "(1) Nitrogen oxides or any volatile organic compounds."
5. 40 C.F.R. § 70.5(a) provides that "for each part 70 source, the owner or operator shall submit a timely and complete permit application in accordance with this section."

6. EPA granted final interim approval to the Michigan Title V operating permit program on January 10, 1997. 62 Fed. Reg. 1387. The program became effective on February 10, 1997. The Michigan Title V program was granted final full approval by EPA, effective November 30, 2001. 66 Fed. Reg. 62949. See 40 C.F.R. Part 70, Appendix A.

Michigan State Implementation Plan

7. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to EPA for approval a SIP that provides for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards. Pursuant to Section 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113.
8. On May 6, 1980, EPA approved Michigan Rule 336.1201 as part of the federally enforceable Michigan SIP. 45 Fed. Reg. 29790 (May 6, 1980).
9. R 336.1201 of the Michigan SIP states, "a person shall not install, construct, reconstruct, relocate, or alter any process, fuel-burning, or refuse-burning equipment, or control equipment pertaining thereto, which may be a source of an air contaminant, until a permit is issued by the commission. This shall be known as a permit to install and shall cover construction, reconstruction, relocation, and alteration of equipment where such is involved."
10. On July 26, 1982, and June 11, 1992, EPA approved Michigan Rules 336.1101 and 336.1116, respectively, as part of the federally enforceable Michigan SIP. 47 Fed. Reg. 32117 and 57 Fed. Reg. 24752
11. R336.1101 states that "air contaminant" means "a dust, fume, gas, mist, odor, smoke, vapor any combination thereof." 47 Fed. Reg. 32117 (July 26, 1982).
12. R336.1116 states that "person" means "any of the following: (i) An individual person... (v) Association. (vi) Partnership. (vii) Firm... (ix) Company. (x) Corporation (xi) Business trust... (xxi) Other entity recognized by law as the subject of rights and duties." among other things. 57 Fed. Reg. 24752 (June 11, 1992)
13. R336.1116 states that "process" or "process equipment" means "any equipment, device, or contrivance and all appurtenances thereto, for the changing any materials ... the use of which may cause discharge of an air contaminant into the outer air." 47 Fed. Reg. 32117 (July 26, 1982).

Factual Background

14. At all times relevant to this NOV/FOV, Hillshire was the owner and/or operator of a commercial bakery (facility) located in Traverse City, Michigan.
15. Hillshire is a person as that term is defined in the Michigan SIP.
16. Hillshire's facility contains process equipment as defined in the Michigan SIP.

17. The process equipment at the facility causes discharge of volatile organic compounds (VOC) into the outer air.
18. VOC is a regulated air pollutant as defined in Title V of the Act and as a gaseous emission to the air is an air contaminant as defined in the Michigan SIP.
19. On November 7, 2013, EPA inspected the Hillshire facility in the company of staff from the Michigan Department of Environmental Quality (MDEQ) Cadillac District Office.
20. During the inspection, EPA confirmed with the facility and the MDEQ inspectors that the facility did not then or ever in the past have any type of air permit issued by MDEQ.
21. On December 5, 2013, EPA issued a Request for Information (information request) to Hillshire pursuant to Section 114 of the Act, requesting, among other things, calculations of annual actual emissions of VOC and annual potential to emit VOC from 2009 through issuance of the information request.
22. On February 27, 2014, Hillshire submitted its response to EPA, including a calculation of potential to emit VOC of 182.43 tons per year.
23. In early April 2014, EPA staff spoke by phone with MDEQ staff, who confirmed that MDEQ had not yet received any permit application from Hillshire.

Violations

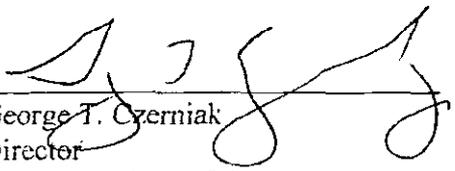
24. Hillshire is operating without a Title V permit and is therefore not operating in compliance with a Title V permit, in violation of Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b).
25. Hillshire has not submitted a complete application for a Title V permit, in violation of 40 C.F.R. § 70.5(a).
26. Hillshire installed and constructed an air contaminant source at its Traverse City, Michigan, location, without first obtaining a permit to install, in violation of the Michigan SIP at Rule 336.1201.

Environmental Impact of Violations

27. Excess emissions of VOC may contribute to ozone formation. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

Dated: _____

5/16/14


George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-14-MI-08 by Certified Mail, Return Receipt Requested, to:

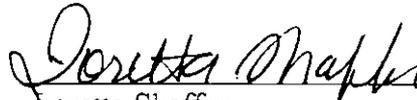
Scott Pryde
Environmental Health and Safety Manager
The Hillshire Brands Company
2314 Sybrandt Road
Traverse City, Michigan 49684

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

Janis Denman, District Supervisor
Cadillac District Office
Michigan Department of Environmental Quality
120 West Chapin Street
Cadillac, Michigan 49601-2158

Thomas Hess, Enforcement Unit Chief
Michigan Department Environmental Quality
Air Quality Division, Enforcement Unit
Constitution Hall, 2nd Floor South Tower
525 West Allegan
Lansing, Michigan 48933-1502

On the 7 day of May 2014.



Loretta Shaffer
Administrative Assistant
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 3165