



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

**MAR 22 2016**

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

David Noble  
Michigan Sugar Company  
2600 South Euclid Avenue  
Bay City, Michigan 48706

Re: Notice of Violation  
Michigan Sugar Company  
Bay City, Michigan

Dear Mr. Noble:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Michigan Sugar Company (MSC or you) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). We find that you have violated provisions of the Michigan State Implementation Plan (SIP) at your Bay City, Michigan, facility. The SIP requires a facility to obtain a permit to install (PTI) prior to the construction of processes or equipment that may be a source of an air contaminant. A PTI was not obtained prior to the construction of an aeration pond in 2013 at the Bay City facility.

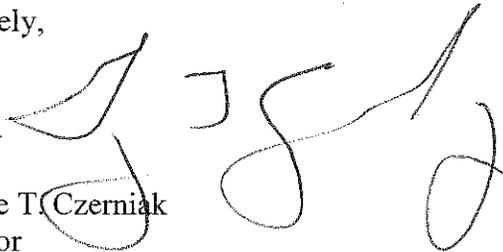
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. 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 information responsive to the NOV 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 Dakota Prentice. You may call him at (312) 886-6761 or email him at [prentice.dakota@epa.gov](mailto:prentice.dakota@epa.gov) 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: Chris Hare  
Michigan Department of Environmental Quality

Tom Hess  
Michigan Department of Environmental Quality



3. Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of an applicable implementation plan or permit.
4. On May 6, 1980, EPA approved Michigan Administrative Code Rule 336.1201 (Michigan Rule 201), pertaining to Permits to Install, as part of the federally enforceable SIP for Michigan. 45 Fed. Reg. 29790.
5. On June 11, 1992 and April 4, 2014, EPA approved Michigan Administrative Code Rules 336.1101 and 336.1116, respectively, as part of the federally enforceable SIP for Michigan. 57 Fed. Reg. 24752 and 79 Fed. Reg. 18802.

#### Michigan SIP

6. Michigan Administrative Code Rule 336.1201(1) states that, 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. A person planning to install, construct, reconstruct, relocate, or alter any such equipment shall apply to the commission for a permit to install . . . .”
7. Michigan Administrative Code Rule 336.1101(c) defines “air contaminant” as “a dust, fume, gas, mist, odor, smoke, vapor, or any combination thereof.”
8. Michigan Administrative Code Rule 336.1116(n) defines “process” or “process equipment” as “any equipment, device, or contrivance, and all appurtenances thereto, for changing any materials . . . , the use of which may cause discharge of an air contaminant into the outer air.”

#### **Relevant Factual Background**

9. MSC owns and operates a sugar beet processing plant located at 2600 South Euclid Avenue, Bay City, Michigan (the Facility).
10. On May 6, 2104, EPA issued an information request to the Facility under Section 114 of the Act (2014 Information Request).
11. MSC provided a response to the 2014 Information Request dated July 11, 2014.
12. On November 3, 2015, EPA issued a supplementary information request to the Facility under Section 114 of the Act (2015 Information Request).
13. MSC provided a response to the 2015 Information Request dated December 4, 2015.

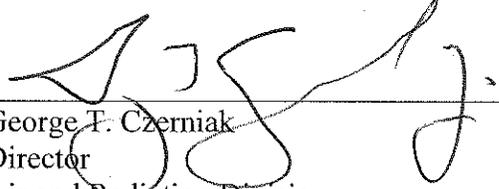
14. In 2013, MSC constructed a new aeration pond, with a stated volume of 4.3 million gallons, to process wastewater from the Facility.
15. EPA has received multiple complaints from residents of Bay City describing odors reportedly originating from MSC's wastewater treatment process, which includes aeration ponds.
16. The aeration pond constructed by MSC in 2013 is a source of air contaminants, including odors and volatile organic compounds.
17. MSC did not apply for or obtain a PTI for construction of the aeration pond in 2013.

**Notice of Violation**

18. MSC constructed an aeration pond in 2013 without applying for and obtaining a PTI in violation of Michigan Rule 336.1201(1).

Date

3/22/16

  
George F. Czerniak  
Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Kathy Jones, certify that I sent a Notice of Violation, No. EPA-5-16-MI-04 by Certified Mail, Return Receipt Requested, to:

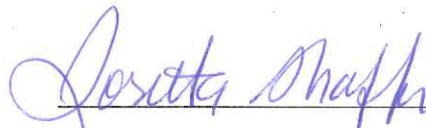
David Noble  
Michigan Sugar Company  
2600 South Euclid Avenue  
Bay City, Michigan 48706

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

Chris Hare, Supervisor  
Air Quality Division  
Michigan Department of Environmental Quality  
401 Ketchum Street, Suite B  
Bay City, Michigan 48708

Tom Hess, Enforcement Unit Manager  
Air Quality Division  
Michigan Department of Environmental Quality  
525 West Allegan  
P.O. Box 30242  
Lansing, Michigan 48909

On the 23 day of March 2016.



Kathy Jones, Program Technician  
AECAB, PAS

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