



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

SEP 9 2010

REPLY TO THE ATTENTION OF:
AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James S. Smith
Midland Site Plant Manager
Dow Corning Corporation
Midland Plant
3901 South Saginaw Road
Midland, Michigan 48686

Dear Mr. Smith:

The U.S. Environmental Protection Agency ("EPA") is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Dow Corning Corporation ("Dow Corning" or "you") under Section 113(a)(1) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a)(1). We find that you are in violation of Section 502 of the Act, Permit to Install No. 91-07A, and the Michigan State Implementation Plan at your Midland, Michigan facility.

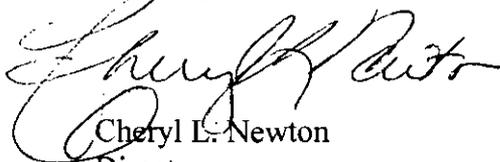
We have several enforcement options under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV/NOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

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 Molly DeSalle. You may call her at (312) 353-8773 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,

A handwritten signature in cursive script, appearing to read "Cheryl L. Newton".

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	
)	
Dow Corning Corporation)	NOTICE OF VIOLATION and
Midland, Michigan)	FINDING OF VIOLATION
)	
)	EPA-5-10-MI-13
Proceedings Pursuant to Section 113(a)(1))	
of the Clean Air Act, 42 U.S.C.)	
§ 7413(a)(1))	
)	

NOTICE AND FINDING OF VIOLATION

Dow Corning Corporation (“Dow Corning” or “you”) owns and operates an industrial organic chemical manufacturing facility in Midland, Michigan. The U.S. Environmental Protection Agency (“EPA”) finds that Dow Corning Corporation (“Dow Corning”) is violating Section 502(a) of the Clean Air Act (“the Act”), Permit to Install No. 91-07A, and Rule 336.1331(c) of the Michigan State Implementation Plan (“SIP”). Specifically, Dow Corning is violating these regulations at its Midland, Michigan, facility, as follows:

Statutory and Regulatory Authority

- 1) Sections 501 through 507 of the Act, 42 U.S.C. §§ 7661 through 7661f, establish an operating permit program for major stationary sources and other sources made subject to Section 502(a) of the Act, 42 U.S.C. § 7661a(a).
- 2) Section 502(a) of the Act provides that after the effective date of any permit program approved or promulgated under this subchapter, “it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter. . .”
- 3) Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. *57 Fed. Reg.* 32295 (July 21, 1992). These regulations are codified at 40 C.F.R. Part 70.
- 4) Section 502(d)(1) of the Act, 42 U.S.C. § 7661a(d)(1), requires that each State develop and submit for EPA’s approval a permit program under State law.
- 5) Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires each operating permit (generally referred to as Title V permits) to contain all applicable emission limitations and standards of the Act for each major source.

- 6) 40 C.F.R. § 70.2 defines “major source,” in part, as 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) of any criteria air pollutant, 10 tpy of a single hazardous air pollutant, or 25 tpy of all hazardous air pollutants combined.
- 7) 40 C.F.R. § 70.3 provides that the requirements of Part 70 apply to any major source located in a State that has received whole or partial approval of its Title V program.
- 8) On December 4, 2001, EPA granted Michigan full approval of its Title V Clean Air Act Permit Program. 66 *Fed. Reg.* 62949 (December 4, 2001). The program became effective on November 30, 2001.
- 9) 40 C.F.R. § 70.6(a)(1) requires the Title V permit to be issued with emission limitations and standards that assure compliance with other applicable requirements.
- 10) 40 C.F.R. § 70.6(b)(1) states that Title V permits are federally enforceable and “all terms and conditions in a part 70 permit, including any provisions designed to limit a source’s potential to emit, are enforceable by the Administrator and citizens under the Act.”
- 11) On June 1, 2006, R336.1331(c) was revised in the Michigan SIP and the revised rule became effective on July 3, 2006. 71 *Fed. Reg.* 31093 (June 1, 2006).
- 12) The federally enforceable Michigan SIP at R336.1331 states: “[i]t is unlawful to cause or allow emissions of particulate matter from any process or process equipment in excess of . . . the maximum allowable emission rate specified as a condition of a permit to install or a permit to operate.”
- 13) On October 2, 2009, Dow Corning was issued a Permit to Install (“PTI”), No. 91-07, for its thermal oxidizer. PTI No. 91-07A contains emission limitations for particulate matter (“PM”), measured in tons per year.

Finding of Fact

- 14) Dow Corning owns and operates a chemical manufacturing facility located at 3901 South Saginaw Road, Midland, Michigan (“the facility”).
- 15) Dow Corning was founded in 1943 in Midland, Michigan. The Midland facility was the first manufacturing facility built by Dow Corning.
- 16) The facility consists of forty-eight (48) vents from thirty-one (31) emission units that are routed through wet and dry blowers to the Thermal Oxidizer (“Throx”).
- 17) The Throx Unit is an “emission unit,” as that term is defined at R336.1105(b). “Emission unit” means any part of a stationary source that emits or has the potential to emit an air contaminant.

- 18) The Throx releases air emissions containing high concentrations of PM with an aerodynamic diameter less than or equal to a nominal 10 micrometers ("PM10").
- 19) Dow Corning's PTI No. 91-07A, includes emission limits for the Throx unit of 8 tons per year (tpy) PM10, for a 12-month rolling time period.
- 20) Dow Corning conducted PM testing, using EPA Reference Method 17 and EPA Reference Method 202, on October 7, 2008.
- 21) Dow Corning conducted PM testing, using EPA Reference Method 17 and EPA Reference Method 202, on November 18, 2009.
- 22) Dow Corning conducted PM testing, using EPA Reference Method 17 and EPA Reference Method 202, on February 16, 2010.
- 23) Dow Corning conducted PM testing, using EPA Reference Method 17 and EPA Reference Method 202, on March 16, 2010.

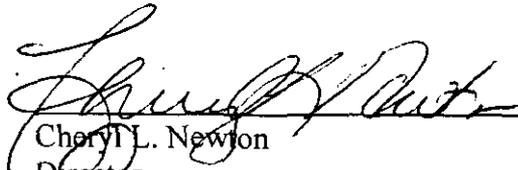
Violations

- 24) The Throx failed an emissions test for particulate emissions on October 7, 2008. The average emission rate during the test was determined to be 3.43 pounds of particulate per hour (lbs/hr). Using 8,760, the maximum annual hours of operation, 15.03 tpy was calculated to be the annual emissions rate.
- 25) The Throx failed an emissions test for particulate emissions on November 18, 2009. The average emission rate during the test was determined to be 6.57 lbs/hr. Using 8,670, the maximum annual hours of operation, 30.65 tpy was calculated to be the annual emissions rate.
- 26) The Throx failed an emissions test for particulate emissions on February 16, 2010. The average emission rate during the test was determined to be 6.37 lbs/hr. Using 8,760, the maximum annual hours of operation, 27.90 tpy was calculated to be the annual emissions rate.
- 27) The Throx failed an emissions test for particulate emissions on March 16, 2010. The average emission rate during the test was determined to be 2.65 lbs/hr. Using 8,760, the maximum annual hours of operation, 11.62 tpy was calculated to be the annual emissions rate.

Environmental Impact of Violations

- 28) Violations of the particulate matter increase public exposure to unhealthy particulate matter. Particulate matter contributes to respiratory problems, lung damage and premature deaths.

9/9/10
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Notice and Finding of Violation,
No. _____, by Certified Mail, Return Receipt Requested, to:

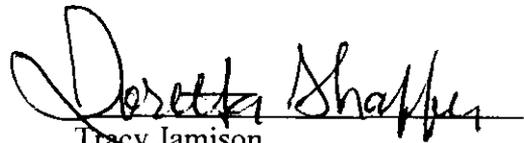
James S. Smith
Midland Site Plant Manager
Mail #010
3901 South Saginaw Road
Midland, Michigan 48686

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

Chris Hare, District Supervisor
Michigan Department of Natural Resources and Environment
Saginaw Bay District Office
401 Ketchum Street
Bay City, Michigan 48708

Tom Hess
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

on the 10 day of September, 2010.



Tracy Jamison,
Office Automation Assistant
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7670 0856