



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

AUG 13 2009

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Gary Kramer, President
Badger State Ethanol LLC
820 West 17th Street
Monroe, Wisconsin 53566

Dear Mr. Kramer:

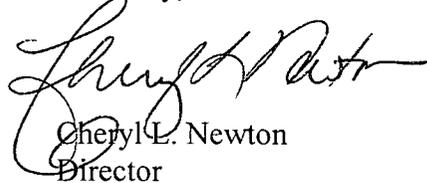
U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) in accordance with Section 113(a) of the Clean Air Act (Act), 42 U.S.C. § 7413(a) to Badger State Ethanol LLC (Badger). EPA has determined that Badger is violating the New Source Performance Standard for Industrial Commercial Institutional Steam Generating Units at 40 C.F.R Part 60, Subpart Db, and Section 111 of the Act, 42 U.S.C. § 7411, at its facility at 820 West 17th Street, Monroe, Wisconsin (the facility).

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

We are offering you the opportunity to request a conference with us about the violations alleged in the FOV. A conference should be requested within 10 days following receipt of this notice and held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any 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 take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contact in this matter is Manojkumar P. Patel. You may call him at (312) 353-3565 if you wish to request a conference. EPA hopes that this NOV/FOV will encourage Badger's compliance with the requirements of the Clean Air Act.

Sincerely,

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

Cheryl L. Newton
Director

Air and Radiation Division

6. 40 C.F.R. § 60.41b defines “steam generating unit” as a device that combusts any fuel or byproduct/waste to produce steam or heat water or any other heat transfer medium.
7. 40 C.F.R. § 60.41b defines “natural gas” as (1) a naturally occurring mixture of hydrocarbon gases found in geological formations beneath the earth’s surface, of which the principal constituent is methane; or (2) liquefied petroleum gas, as defined by the American Society for Testing and Materials in ASTM D1835 (incorporated by reference).
8. 40 C.F.R. § 60.44b(a) provides that no owner or operator of a Subpart Db affected facility that combusts a natural gas with low heat release rate from a steam generating unit shall cause to be discharged into the atmosphere from that affected facility any gases that contain nitrogen oxides (NO_x) (expressed as NO₂) in excess of 43 ng/J (0.10 lb/million Btu) heat input.
9. 40 C.F.R. § 60.48b(b)(1) requires the owner or operator of a Subpart Db affected facility to install, calibrate, maintain, and operate a CEMS for measuring NO_x to the atmosphere, and record the output of the system.
10. 40 C.F.R. § 60.49b requires the owner or operator of a Subpart Db affected facility to maintain certain records and make certain reports to EPA.

B. FACTUAL BACKGROUND

11. Badger State Ethanol LLC (Badger) is a Wisconsin corporation, authorized to do business in the State of Wisconsin.
12. Badger owns and operates an ethanol manufacturing facility at 820 West 17th Street, Monroe, Wisconsin (the facility).
13. Badger’s facility includes a thermal oxidizer with a heat recovery boiler, permitted by the Wisconsin Department of Natural Resources (WDNR) as Process P10.
14. Badger commenced construction on the steam generating unit (P10) in 2001, at which point it had a heat input capacity of 125 million Btu per hour. In or around 2007, Badger modified the steam generating unit P10 to have a heat input capacity of 175 mmBtu/hour.
15. Badger’s thermal oxidizer with a heat recovery boiler, Process P10, is a “steam generating unit” within the meaning of 40 C.F.R. § 60.41b, and is subject to the Standards of Performance for Industrial Commercial Steam Generating Units, 40 C.F.R. Part 60, Subpart Db.
16. On or about December 15, 2008, EPA performed an unannounced inspection of the Badger facility at 820 West 17th Street, Monroe, Wisconsin. During the inspection, EPA did not observe a CEMS for measuring and recording the NO_x emissions at Process P10.

17. Badger performed a stack test on its Process P10 on June 26, 2008. The results of that test indicated that Badger was emitting NO_x at the rate of 0.21 lb/mmBtu.

C. VIOLATIONS

18. Badger exceeded the 0.10 NO_x emissions limit as its Process P10, in violation of 40 C.F.R. § 60.44b(a).
19. Badger failed to install, calibrate, maintain, and operate CEMS for measuring NO_x, in violation of 40 C.F.R. § 60.48b(b)(1).
20. Badger's violations of Standards of Performance for Industrial Commercial Institutional Steam Generating Units at 40 C.F.R. Part 60, Subpart Db, are violations of Section 111(e) of the Act, 42 U.S.C. § 7411(e).

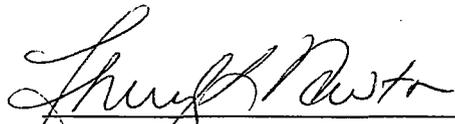
D. ENFORCEMENT

21. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), provides in part that if the Administrator finds that a person has violated, or is in violation of any requirement or prohibition of any rule...promulgated...under [Title I of the Act], the Administrator may issue an administrative penalty or under Section 113(d), issue an order requiring compliance with such requirement or prohibition, or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

E. ENVIRONMENTAL IMPACT OF VIOLATIONS

22. Nitrogen oxides cause formation of acid rain and ground level ozone, which could cause respiratory inflammation and damage plant life.

8/12/09
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. EPA-5-09-WI-09, by Certified Mail, Return Receipt Requested, to:

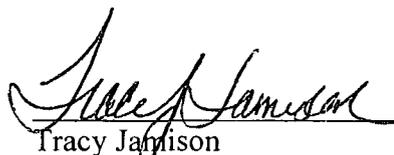
Gary Kramer, President
Badger State Ethanol LLC
820 West 17th Street
Monroe, Wisconsin 53566

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

Bill Baumann, Section Chief, Compliance and Enforcement
Wisconsin Department of Natural Resources
Bureau of Air Management
101 S Webster Street
P.O. Box 7921 (AM/7)
Madison, Wisconsin 53702

Eileen Pierce, Region Leader
South Central Region
Wisconsin Department of Natural Resources
3911 Fish Hatchery Road
Madison, Wisconsin 53711

on the 13 day of August, 2009.



Tracy Jamison
Office Automation Assistant
AECAS (MI/WI)
(312) 353-5723

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0187 5969