



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

JUN 29 2006

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Melanie Murray
Environmental Engineer
American Energy Corporation
Century Mine
43521 Mayhugh Hill Road
Beallsville, OH 43716

Re: Notice and Finding of
Violation for American
Energy Corporation,
Century Mine,
Beallsville, OH

Dear Ms. Murray:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to American Energy Corporation (you). We find that you are violating Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e), at your Beallsville, Ohio Century Mine facility.

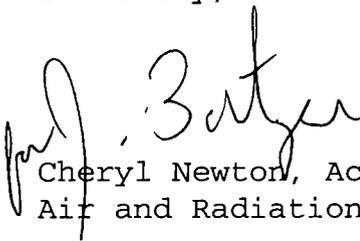
We have several enforcement options under Section 113(a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the FOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. 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 U.S. EPA contact in this matter is Kushal Som. You may call him at (312) 353-5792 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely,



Cheryl Newton, Acting Director
Air and Radiation Division

Enclosure

cc: Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency

Bruce Weinberg
APC Supervisor
Ohio Environmental Protection Agency
Southeast District Office

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
American Energy Corporation) **NOTICE AND FINDING OF**
Century Mine) **VIOLATION**
Beallsville, OH)
) **EPA-5-06-OH-11**
)
Proceedings Pursuant to)
the Clean Air Act,)
42 U.S.C. §§ 7401 et seq.)

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) finds that American Energy Corporation (AEC) is violating Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e) and 40 C.F.R. § 52.23. Specifically, AEC is violating the New Source Performance Standards (NSPS) for Coal Production Plants at 40 C.F.R. § 60, Subpart Y, and the Ohio State Implementation Plan at Ohio Administrative Code Rules 3745-31 and 3745-17, as follows:

Regulatory Authority

New Source Performance Standards

1. Pursuant to Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e), it is unlawful for the owner or operator of a source to operate such source in violation of an applicable NSPS.
2. Pursuant to Section 111 of the Clean Air Act, 42 U.S.C. § 7411, the Administrator promulgated the NSPS for Coal Preparation Plants at 40 C.F.R. Part 60, Subpart Y, 40 C.F.R. §§ 60.250 through 60.254.
3. Pursuant to 40 C.F.R. § 60.250, the provisions of Subpart Y apply to coal preparation plants with a production capacity of 200 tons per day or greater that commenced construction after October 24, 1974.

4. Pursuant to 40 C.F.R. § 60.250, the provisions of Subpart Y apply to, inter alia, the following affected facilities in coal preparation plants: Transfer and Loading Systems and Coal Processing and Conveying Equipment.
5. Pursuant to 40 C.F.R. § 60.2, "construction" means the fabrication, erection or installation of an affected facility.
6. Pursuant to 40 C.F.R. § 60.251(i), "transfer and loading system" means any facility used to transfer and load coal for shipment.
7. Pursuant to 40 C.F.R. § 60.251(g), "coal processing and conveying equipment" means any machinery used to reduce the size of coal or to separate coal from refuse, and the equipment used to convey coal to or remove coal and refuse from the machinery. This includes, but is not limited to, breakers, crushers, screens, and conveyor belts.
8. Pursuant to 40 C.F.R. § 60.7(a)(1), the owner or operator of an affected facility shall notify the Administrator in writing that construction has commenced postmarked no later than 30 days after such date.
9. Pursuant to 40 C.F.R. § 60.7(a)(3), the owner or operator of an affected facility shall notify the Administrator in writing of the actual date of initial start-up postmarked no later than 15 days after such date.
10. Pursuant to 40 C.F.R. §§ 60.8, 60.252, and 60.254, the owner or operator of an affected facility shall conduct a performance test not later than 180 days after the initial startup of such facility to determine compliance with the applicable Subpart Y standard, and furnish the Administrator with a written report of the results of such performance test.
11. Pursuant to 40 C.F.R. § 60.7(a)(6), the owner or operator of an affected facility shall notify the Administrator in writing of the anticipated date for conducting the opacity observations postmarked not less than 30 days prior to such date.

12. Pursuant to 40 C.F.R. §§ 60.8, 60.252, and 60.254, the owner or operator of an affected facility consisting of transfer and loading systems and coal processing and conveying equipment shall not discharge, or cause the discharge into the atmosphere, gases which exhibit 20 percent opacity or greater.
13. Pursuant to 40 C.F.R. §§ 60.8, 60.252, and 60.254 the owner or operator of an affected facility consisting of transfer and loading systems and coal processing and conveying equipment shall determine compliance with the opacity standard by using Method 9 of 40 C.F.R. Part 60, Appendix A.

Quarterly Report Requirement

14. Pursuant to Ohio Administrative Code (OAC) Rule 3745-31, no person shall cause, permit, or allow the installation of a new source of air pollutants without first obtaining a Permit-to-Install from the Ohio Environmental Protection Agency (OEPA).
15. On June 7, 2001, OEPA issued a Final Permit-to-Install to the facility, Application Number 06-06463.
16. The Permit-to-Install General Terms and Conditions, on page 2 of 21 at Part I(A)(2)(b), requires that AEC submits deviation reports to the OEPA on a quarterly basis.

Inspection Requirements

17. Pursuant to the OAC Rule 3745-31-05(C), the OEPA may impose such special terms and conditions in a Permit-to-Install as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality.
18. The Permit-to-Install Special Terms and Conditions, on page 8 of 21 and page 9 of 21 at Part II(C) and Part II(E), require that daily inspections must be conducted at each loading station and conveyor using 40 C.F.R. Part 60, Appendix A, Method 9.

19. The Permit-to-Install Special Terms and Conditions, on page 17 of 21 and page 18 of 21 at Part II(C) and Part II(E), requires that daily inspections must be conducted at each unpaved parking area and roadway using 40 C.F.R. Part 60, Appendix A, Method 22.
20. The Permit-to-Install Special Terms and Conditions, on pages 12 through 14 of 21 at Part II(C) and Part II(E), requires that daily inspections must be conducted at each coal load-in operation, coal load-out operation and wind erosion from coal pile surfaces, using 40 C.F.R. Part 60, Appendix A, Method 22.
21. The Permit-to-Install Special Terms and Conditions, on pages 20 through 21 of 21 at Part II(C) and Part II(E), requires that daily inspections must be conducted at the coal crushing and screening/wash plant, using 40 C.F.R. Part 60, Appendix A, Method 9.

American Energy Corporation Century Mine Facility

22. AEC owns and operates a coal preparation plant at 43521 Mayhugh Hill Road, Township Highway 88 in Beallsville, Ohio.
23. On June 7, 2001, OEPA issued a Final Permit-to-Install to the facility, Application Number 06-06463. This Permit-to-Install stated that AEC must comply with the requirements of 40 C.F.R. Part 60, Subpart Y.
24. On March 9, 2006, the U.S. EPA sent a Section 114 request letter to AEC requesting, among other things, all correspondence between AEC, OEPA and the U.S. EPA.
25. On March 23, 2006, AEC submitted a response to the March 9, 2006, Section 114 request letter. According to this response, AEC did not submit any notifications required by 40 C.F.R. NSPS Part 60, Subpart Y. Additionally, AEC did not conduct any testing required by the NSPS or their June 7, 2001, Permit-to-Install, using 40 C.F.R. Part 60, Appendix A, Method 9 and 22. Finally, AEC did not submit

any quarterly reports to OEPA, as required by their Permit-to-Install.

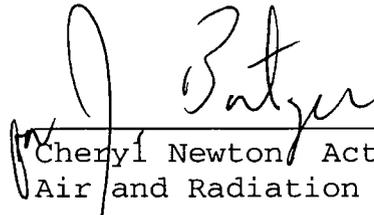
Violations

26. AEC is in violation of 40 C.F.R. § 60.8, and the NSPS for Coal Preparation Plants at 40 C.F.R. Part 60, Subpart Y, by failing to conduct performance tests to determine compliance with the opacity standard within 180 days of the initial startup.
27. AEC is in violation of Section 111(e) of the Clean Air Act, 42 U.S.C. § 7411(e), by failing to conduct proper testing, and failing to submit proper notifications, in violation of the NSPS for Coal Preparation Plants at 40 C.F.R. Part 60, Subpart Y.
28. AEC is in violation of Ohio Administrative Code (OAC) Rule 3745-31 and its Permit-to-Install, by not submitting deviation reports to the OEPA on a quarterly basis.
29. AEC is in violation of OAC Rule 3745-31-05(C), and its Permit-to-Install, by not conducting daily inspections at each loading station and conveyor, using 40 C.F.R. Part 60, Appendix A, Method 9.
30. AEC is in violation of OAC Rule 3745-31-05(C), and its Permit-to-Install, by not conducting daily inspections at each unpaved parking area and roadway using 40 C.F.R. Part 60, Appendix A, Method 22.
31. AEC is in violation of OAC Rule 3745-31-05(C), and its Permit-to-Install, by not conducting daily inspections at each coal load-in operation, coal load-out operation and wind erosion from coal pile surfaces, using 40 C.F.R. Part 60, Appendix A, Method 22.

32. AEC is in violation of OAC Rule 3745-31-05(C), and its Permit-to-Install, by not conducting daily inspections at the coal crushing and screening/wash plant, using 40 C.F.R. Part 60, Appendix A, Method 9.

6/29/06

Date



Cheryl Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Finding of Violation, No. EPA-5-06-OH-11, by Certified Mail, Return Receipt Requested, to:

Melanie Murray
Environmental Engineer
American Energy Corporation
Century Mine
43521 Mayhugh Hill Road
Beallsville, OH 43716

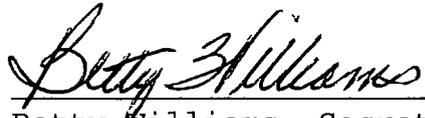
I also certify that I sent a copy of the Finding of Violation, No. EPA-5-06-OH-11, by First Class Mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

and

Bruce Weinberg
APC Supervisor
Ohio Environmental Protection Agency
Southeast District Office
2195 Front Street
Logan, Ohio 43138

on the 30th day of June 2006.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 1455 0563