



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

JAN 28 2008

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Barbara J. Mantarro
Director of Environmental Quality
The Kellogg Company
235 Porter Street
Battle Creek, Michigan 49014

Dear Ms. Mantarro:

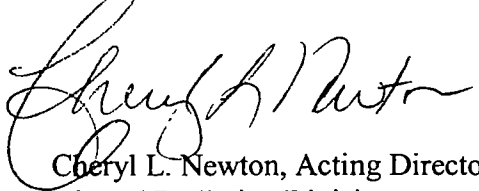
This is to advise you that the U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to The Kellogg Company (you or Kellogg). We find that you are violating the Prevention of Significant Deterioration requirements under Section 165 of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7475, and the Michigan State Implementation Plan (SIP) at your Battle Creek, Michigan facility.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action. Section 113 of the CAA provides you with the opportunity to request a conference with us to discuss the violations cited in the NOV. 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 contacts in this matter are Jamie Iatropulos and Kathy Memmos. You may call them at (312) 886-6024 and (312) 353-4293, respectively, if you wish 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 yours,

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

Cheryl L. Newton, Acting Director
Air and Radiation Division

Enclosure

cc: Mary Douglas, MDEQ
John Etcorn, Kellogg Company

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:)	
)	
The Kellogg Company)	NOTICE OF VIOLATION
Battle Creek, Michigan)	
)	EPA-5-08-MI-03
Proceedings Pursuant to)	
the Clean Air Act,)	
42 U.S.C. §§ 7401 et seq.)	
)	

NOTICE OF VIOLATION

The Kellogg Company (you or Kellogg) owns and operates a breakfast cereal manufacturing facility located in Battle Creek, Michigan. The U.S. Environmental Protection Agency is sending this Notice of Violation (NOV) to you for violating the Clean Air Act (CAA or the Act) and its implementing regulations. An explanation of the violations is provided below.

Section 113 of the CAA provides you with the opportunity to request a conference with us to discuss the violations cited in this NOV. 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 the facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

Explanation of Violations

1. Violation of the Federally Enforceable Michigan State Implementation Plan (SIP) Permit to Install Requirements:

- a. The federally enforceable Michigan State Implementation Plan (SIP) at R 336.1201, provides, in relevant part: "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 . . . This shall be known as a permit to install and shall cover construction, reconstruction, relocation, and alteration of equipment where such is involved."

- b. On May 6, 1980, the EPA approved R 336.1201 as part of the federally enforceable Michigan SIP; the rule became effective on that same date. 45 Fed. Reg. 29790.
- c. In or around 2002, Kellogg altered its Bran Line and installed two cereal coating drums on its Bran Line, which caused an increase in emissions of volatile organic compounds.
- d. Kellogg is in violation of R 336.1201 by failing to obtain a permit to install prior to altering its Bran Line and installing two cereal coating drums on that line, causing an increase in emissions of volatile organic compounds.

2. Violation of the CAA's Prevention of Significant Deterioration Requirements:

- a. The Prevention of Significant Deterioration (PSD) requirements of the Act, 42 U.S.C. § 7470-7492, provide that no major emitting facility may be constructed unless, among other things, a permit has been issued, and the facility is subject to best available control technology. Section 165 of the Act, 42 U.S.C. § 7475.
- b. "The term 'major emitting facility' means any . . . source with the potential to emit two hundred and fifty tons per year or more of any air pollutant." Section 169(1) of the Act, 42 U.S.C. 7479(1).
- c. "The term 'construction' . . . includes the modification of any source or facility." Section 169(2)(C) of the Act, 42 U.S.C. § 7479(2)(C).
- d. "The term 'modification' means any physical change in, or change in the method of operation of, a stationary source which increases the amount of any air pollutant emitted by such source." Section 111(4) of the Act, 42 U.S.C. § 7411(4),
- e. On August 7, 1980, EPA determined that the Michigan PSD rules did not satisfy the Act's requirements and disapproved them under Section 110(a)(3) of the Act, 42 U.S.C. § 7410(a)(3). At that same time, EPA incorporated the provisions of 40 C.F.R. § 52.21 except paragraph (a)(1) into the Michigan SIP, 45 Fed. Reg. 52741, as amended at 68 Fed. Reg. 74489 and codified at 40-C.F.R. § 52.1180.
- f. 40 C.F.R. § 52.21(i)(1) (2002) provides that "[n]o major stationary source or modification . . . shall begin actual construction without a permit."

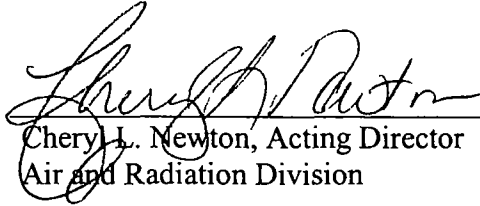
- g. 40 C.F.R. 52.21(j)(3) (2002) provides that a source undertaking major modification shall apply best available control technology for each pollutant subject to regulation under the Act which would result in a significant net emissions increase at the source as a result of the physical change or change in the method of operation.
- h. "Major modification" is defined at 40 C.F.R. § 52.21(b)(2)(i) (2002) as "any physical change in or change in the method of operation of a major stationary source that would result in a significant net emission increase of any pollutant subject to regulation under the Act."
- i. The term "significant," at 40 C.F.R. 52.21(b)(23) (2002), "means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed" 40 tons per year of volatile organic compounds.
- j. Kellogg's breakfast cereal manufacturing facility located in Battle Creek, Michigan constitutes a "major stationary source" because it emits or has the potential to emit 250 tons per year or more of volatile organic compounds, particulate matter, carbon monoxide, nitrogen oxides, and sulfur dioxide.
- k. In or about 2002, Kellogg made a physical change to, and a change in the method of, its Bran Line by the installation of two cereal coating drums.
- l. The physical and operational changes caused a significant net emissions increase of volatile organic compounds.
- m. Kellogg is in violation of the Section 165 of the Act, 42 U.S.C. § 7475, and 40 C.F.R. §§ 52.21(i) and (j) by making a major modification to its Bran Line without obtaining a PSD permit and installing best available control technology to control emissions of volatile organic compounds resulting from the physical change to, and change in the method of operation of, its Bran Line by the addition of the two cereal coating drums.

Environmental Impact of Violations

- 1. The purpose of the requirement to obtain permits to install is, among other things, to ensure emissions from the source minimized and are properly controlled through the installation of best available control technology.
- 2. Emission of volatile organic compounds contributes to the formation of ground-level ozone and smog. Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and congestions. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame

the linings of the lungs. Repeated exposure may permanently scar lung tissue. Ground-level ozone can have detrimental effects on plants and ecosystems. These effects include: interfering with the ability of sensitive plants to produce and store food, making them more susceptible to certain diseases, insects, other pollutants, competition and harsh weather; damaging the leaves of trees and other plants, negatively impacting the appearance of urban vegetation, national parks, and recreation areas; and reducing crop yields and forest growth, potentially impacting species diversity in ecosystems.

1/28/08
Date


Cheryl L. Newton, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, certify that I sent a Notice and Finding of Violation, No. EPA-5-08-MI-03, by Certified Mail, Return Receipt Requested, to:

Barbara J. Mantarro
Director of Environmental Quality
The Kellogg Company
235 Porter Street
Battle Creek, Michigan 49014

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

Mary Douglas, District Supervisor
Michigan Department of Environmental Quality
Kalamazoo District Office
7953 Adobe Road
Kalamazoo, Michigan 49009-5026

John Etzcorn
Environmental Program Manager
The Kellogg Company
235 Porter Street
Battle Creek, Michigan 49014

on the 29th day of January, 2008.



Shanee Rucker
Administrative Assistant
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 0186 2143