



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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DEC 21 2016

REPLY TO THE ATTENTION OF:

Randy Graves
Environmental, Health and Safety Manager
MGPI of Indiana, LLC
7 Ridge Avenue
Lawrenceburg, Indiana 47025

Re: Notice and Finding of Violation
MGPI of Indiana, LLC
Dearborn, Indiana

Dear Mr. Graves:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to MGPI of Indiana, LLC (MGPI) under Section 113(a)(1) and (a)(3) of the Clean Air Act (CAA or Act), 42 U.S.C. § 7413(a)(1) and (a)(3). EPA has determined that you have violated and are continuing to violate the Act's Non-Attainment New Source Review requirements under Part D of the Act, 42 U.S.C. §§ 7501 *et seq.* and the Indiana State Implementation Plan (SIP) at your Lawrenceburg, Indiana facility.

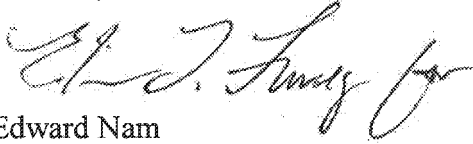
Section 113(a) of the Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering MGPI an opportunity to confer with us about the violations alleged in the NOV/FOV. 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/FOV 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. EPA is also including a Small Business Resources Information Sheet for your reference.

The EPA contact in this matter is Marie St. Peter, Environmental Engineer. You may call her at (312) 886-4746 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,



Edward Nam
Director
Air and Radiation Division

cc: Phil Perry, Chief
Compliance and Air Enforcement, IDEM

Chief Environmental Compliance Officer
MGP Ingredients, Inc.
Atchison, Kansas

enclosures: Notice of Violation and Finding of Violation EPA-5-17-IN-03
Small Business Resources Information Sheet

Sections 2-1 and 2-3 of Chapter 326 of the Indiana Administrative Code (326 IAC 2-1, 2-3) as SIP revisions replacing APC 19. 59 *Fed. Reg.* 51108 (effective December 6, 1994). 40 C.F.R. § 52.800(c)(94). Included in the NNSR SIP revisions were changes to the definitions previously codified at 325 IAC 1-1; the definitions now applicable to NNSR in Indiana appear at 326 IAC 2-3-1. All citations to the NNSR regulations herein refer to the provisions of the Indiana SIP as applicable at the time of the project.

4. 326 IAC 2-3-2(a) provides that NNSR regulations “appl[y] to new major stationary sources or major modifications constructed in an area designated, as of the date of submittal of a complete application, as nonattainment in 326 IAC 1-4, for a pollutant for which the stationary source or modification is major.”
5. 326 IAC 2-3-3(a)(7) provides that construction of a major modification shall only begin after the applicant “obtain[s] the necessary preconstruction approvals . . . [and meets all the permit requirements] specified in 326 IAC 2-5.1 or 326 IAC 2-7, as applicable.”
6. The Indiana SIP and NNSR regulations define “major modification” as “any physical change in, or change in the method of operation of, a major stationary source that would result in a significant emissions increase and a significant net emissions increase of a regulated NSR pollutant from the major stationary source.” 326 IAC 2-3-1(y). *See also* 40 C.F.R. § 51.165(a)(1)(v)(A)(1) and (A)(2).
7. The Indiana SIP and NNSR regulations define “regulated NSR pollutant” as, among other things, “any pollutant that is a constituent or precursor of a general pollutant.” 326 IAC 2-3-1(mm)(3). *See also* 40 C.F.R. § 51.165(a)(1)(xxxvii)(C).
8. The Indiana SIP and NNSR regulations further define that for the purposes of NNSR, that “regulated NSR pollutant” includes “nitrogen oxides or any VOC.” 326 IAC 2-3-1(mm). 40 C.F.R. § 51.165(a)(1)(xxxvii)(C)(1).
9. The Indiana SIP and NNSR regulations define “major stationary source” as, any stationary source of air pollutants that emits or has the potential to emit one hundred (100) tons per year of any regulated NSR pollutant. 326 IAC 2-3-1(z)(1). 40 C.F.R. § 51.165(a)(1)(iv)(A)(1).
10. The Indiana SIP and NNSR regulations define “significant,” in relation to ozone, “in reference to a net emissions increase . . . a rate of emissions that would equal or exceed . . . the following [rate]: . . . ozone . . . 40 tons per year of volatile organic compounds (VOC) or oxides of nitrogen.” 326 IAC 2-3-1(pp). 40 C.F.R. § 51.165(a)(1)(x)(A).
11. The Indiana SIP and NNSR regulations define “significant emissions increase” for VOCs as “an increase in emissions that is significant as defined [in the applicable subsection] for that pollutant.” 326 IAC 2-3-1(qq). 40 C.F.R. § 51.165(a)(1)(xxvii).
12. The Indiana SIP and NNSR regulations define “fugitive emissions” as “those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.” 326 IAC 2-3-1(u). 40 C.F.R. § 51.165(a)(1)(ix).

13. 326 IAC 2-3-3(a)(2) provides that “prior to the issuance of a construction permit to a source subject to this rule, the applicant shall . . . apply emission limitation devices or techniques to the proposed construction or modification such that the LAER for the applicable pollutant will be achieved.” 40 C.F.R. § 51.165(a)(2)(i).
14. The Indiana SIP and NNSR regulations define “LAER” as “for any source, the more stringent rate of emissions based on the most stringent emissions limitation of the following:
 - I. Contained in the implementation plan of any state for the class or category of stationary source unless the owner or operator of the proposed stationary source demonstrates that the limitations are not achievable.
 - II. Achieved in practice by the class or category of stationary source. This limitation, when applied to a modification, means the LAER for the new or modified emissions unit within the stationary source. In no event shall the application of the LAER allow a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under applicable new source standards of performance.” 326 IAC 2-3-1(x); *See also* 40 C.F.R. § 51.165(a)(1)(xiii).

Title V

15. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that no person may operate a major source without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed. Reg. 32295; 40 C.F.R. Part 70. EPA promulgated regulations governing the federal operating permit program on July 1, 1996. *See* 61 Fed. Reg. 34228; 40 C.F.R. Part 70.
16. On December 4, 2001, EPA granted full approval of Indiana’s Title V Clean Air Act Permit Program, effective November 30, 2001. *See* 66 Fed. Reg. 62969.
17. On March 16, 2015, EPA approved Indiana’s Title V construction permit rule, replacing Indiana’s previous construction permit rules codified at 326 IAC 2-1 with 326 IAC 2-7-10.5. *See* 80 Fed. Reg. 13493.
18. Section 503 of the Act, 42 U.S.C. § 7661b, sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.
19. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state SIP. 42 U.S.C. § 7661c(a).
20. 40 C.F.R. § 70.1(b) provides that: “All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.” *See* 326 IAC 2-7-2.

21. 40 C.F.R. § 70.2 defines “applicable requirement” to include, “(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in part 52 of this chapter...” *See* 326 IAC 2-7-1(6).
22. 40 C.F.R. § 70.7(b) provides that no source subject to 40 C.F.R. Part 70 requirements may operate without a permit as specified in the Act. *See also* IAC 2-7-2.
23. 40 C.F.R. § 70.5(a) and (c) require timely and complete permit applications for Title V permits with required information that must be submitted and 40 C.F.R. § 70.6 specifies required permit content. *See also* 326 IAC 2-7-2.
24. 40 C.F.R. § 70.5(b) provides that: “Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed for a complete application but prior to release of a draft permit.” *See also* 326 IAC 2-7-2.
25. 326 IAC 2-7-10.5(a) requires that an owner or operator of a source with a Title V permit (Title V source) proposing to construct a new emissions unit must submit a request for a modification approval in accordance with 326 IAC 2-7-10.5.
26. 326 IAC 2-7-10.5(g) requires the owner or operator of a Title V source planning to complete a modification that, among other things, increases potential VOC emissions by 25 tons per year or more must have their approval request processed according to 327 IAC 2-7-10.5(h).
27. 327 IAC 2-7-10.5(h)(2) prohibits the construction of any applicable modification until the administrator has issued a modification approval, except as provided in 326 IAC 2-13.
28. 327 IAC 2-7-10.5(h)(4) provides that a modification approval may only be issued if, among other things, the conditions of the modification approval provide for compliance with all applicable requirements, which includes but is not limited to, the NNSR regulations.

Factual Background

29. MGPI is a wholly owned subsidiary of MGP Ingredients, Inc. a Kansas corporation with a place of business in Lawrenceburg, Indiana.
30. MGPI is a “person” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

31. MGPI is the owner and operator of a distillery located at 7 Ridge Avenue, Lawrenceburg, Indiana (Lawrenceburg Distillery or the Facility).
32. The Lawrenceburg Distillery is located in Dearborn County, Indiana. Dearborn County is located in an area which has been classified as nonattainment for the 2008 Ozone National Ambient Air Quality Standards (NAAQS) from July 20, 2012 to the present. 77 Fed. Reg. 30087.
33. The Lawrenceburg Distillery operates under Title V operating permit no. 029-32119-00005, which the Indiana Department of Environmental Management (IDEM) issued to MGPI on June 6, 2014.
34. The Lawrenceburg Distillery is a "major stationary source," as defined at 326 IAC 2-3-1(z)(1) and 40 C.F.R. § 51.165(a)(1)(xiii), because it has a potential to emit more than 100 tons per year of VOCs.
35. The Lawrenceburg Distillery produces barrel-aged alcohol which requires the aging of alcohol in barrels stored in aging warehouses, herein referred to in its entirety as the alcohol aging process.
36. The alcohol aging process results in VOC emissions.
37. MGPI does not control emissions resulting from the alcohol aging process.
38. On May 17, 2016, EPA conducted a CAA inspection (the inspection) at the Facility.
39. During the inspection, MGPI personnel informed EPA that MGPI had constructed several new aging warehouses in 2015 (2015 aging warehouses) at the Lawrenceburg Distillery to increase the capacity of its alcohol aging process.
40. During the inspection, EPA noticed that additional aging warehouses (2016 aging warehouses) were being constructed.
41. On September 6, 2016, IDEM received an air permit application (2016 permit application) from MGPI proposing the construction of ten new aging warehouses (new aging warehouses) to increase the capacity of its alcohol aging process by 503,600 barrels.
42. MGPI's 2016 permit application is for a significant source modification to operating permit 029-32119-00005 and does not propose, among other things, the implementation of LAER, emissions offsets, or the performance of an air quality analysis and modeling, as required by the NNSR regulations and 326 IAC 2-3.
43. MGPI's 2016 permit application includes the following table, which describes the installation dates of the proposed new aging warehouses, their capacities, and their vent IDs:

Unit ID	Description	Installation Date	Maximum Capacity (barrels)	Stack/Vent ID
EU-770	Warehouse IC	2015	7,600	707
EU-771	Warehouse K	2015	14,000	706
EU-772	Warehouse O	2015	47,000	709
EU-773	Warehouse P	2016	65,000	710
EU-774	Warehouse Q	2016	46,000	711
EU-775	Warehouse F	2016	60,000	712
EU-776	Warehouse H	2017	60,000	713
EU-777	Warehouse V	2017	60,000	714
EU-778	Warehouse 3XProfab	2018	108,000	715
EU-779	Warehouse 1XProfab	2019	36,000	716

44. MGPI's 2016 permit application states that the 2015 aging warehouses and 2016 aging warehouses began operating in 2015 and 2016, respectively.
45. MGPI's 2016 permit application states that the construction of all ten new aging warehouses is one project.
46. MGPI's 2016 permit application states that the increase in potential total emissions from the new aging warehouses is 1737.42 tons of VOCs.
47. The VOCs released during the alcohol aging process are not fugitive, as they can reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.
48. MGPI did not apply for an NNSR permit prior to beginning construction of the new aging warehouses, and has still not applied for an NNSR permit.
49. MGPI's 2016 permit application states that the construction of the 2015 and 2016 whiskey warehouses resulted in the following potential emissions:

Unit ID	Description	Installation Date	Maximum Capacity (barrels)	VOC Emission Factor (lbs /barrel/year)	VOC Emissions (tons/year)
EU-770	Warehouse IC	2015	7,600	6.9	26.22
EU-771	Warehouse K	2015	14,000	6.9	48.3
EU-772	Warehouse O	2015	47,000	6.9	162.15
EU-773	Warehouse P	2016	65,000	6.9	224.25
EU-774	Warehouse Q	2016	46,000	6.9	158.7
EU-775	Warehouse F	2016	60,000	6.9	207

50. MGPI did not submit to IDEM a request for approval of its modification prior to commencing construction of the new aging warehouses, as required pursuant to 326 IAC 2-7-10.5(h)(2).

Violations

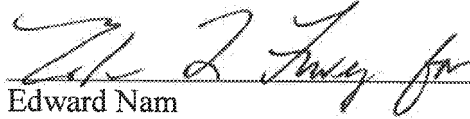
51. The construction of the new aging warehouses referred to in paragraphs 39-48, above, constitutes a “major modification” under the NNSR regulations and 326 IAC 2-3 of the Indiana SIP, because the emissions resulting from the new aging warehouses are not fugitive and will result in a significant emissions increase and a significant net emissions increase.
52. For the modification referred to in Paragraphs 39-48, above, MGPI failed to obtain a NNSR permit as required by the NNSR regulations and 326 IAC 2-3 of the Indiana SIP.
53. MGPI is in violation of NNSR requirements, Part D of the Act, 42 U.S.C. § 7502, and 326 IAC 2-3 of the Indiana SIP for construction of a major modification to an existing major source at its Lawrenceburg Distillery without applying for or obtaining an NNSR permit, and for operating the modified facilities without installing appropriate emission control equipment in accordance with a LAER analysis.
54. For the construction referred to in Paragraphs 49-50, above, MGPI is in violation of 326 IAC 2-7-10.5(h)(2) for failing to obtain approval of its modification prior to commencing construction.

Environmental Impact of Violations

55. These violations have caused or can cause excess emissions of VOCs, which are precursors to ozone. Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. Ground-level ozone can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

12/21/16

Date



Edward Nam

Director

Air and Radiation Division

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

EPA's Small Business Websites

Small Business Environmental Homepage - www.smallbiz-enviroweb.org

Small Business Gateway - www.epa.gov/smallbusiness

EPA's Small Business Ombudsman - www.epa.gov/sbo or 1-800-368-5888

EPA's Compliance Assistance Homepage

[www.epa.gov/compliance/assistance/
business.html](http://www.epa.gov/compliance/assistance/business.html)

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

EPA's Compliance Assistance Centers

www.assistancecenters.net

EPA's Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture/

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org or 1-734-995-4911

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Metal Finishing

www.nmfrc.org

Paints and Coatings

www.paintcenter.org

Printed Wiring Board Manufacturing

www.pwbrc.org

Printing

www.pneac.org

Ports

www.portcompliance.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

Hotlines, Helplines and Clearinghouses

www.epa.gov/epahome/hotline.htm

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Some examples are:

Antimicrobial Information Hotline

info-antimicrobial@epa.gov or
1-703-308-6411

Clean Air Technology Center (CATC) Info-line

www.epa.gov/ttn/catc or 1-919-541-0800

Emergency Planning and Community Right-To-Know Act

[www.epa.gov/superfund/resources/
infocenter/epcra.htm](http://www.epa.gov/superfund/resources/infocenter/epcra.htm) or 1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or
734-214-4100

National Pesticide Information Center

www.npic.orst.edu/ or 1-800-858-7378

National Response Center Hotline -

to report oil and hazardous substance spills
www.nrc.uscg.mil or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC)

www.epa.gov/opptintr/ppic or
1-202-566-0799

Safe Drinking Water Hotline

[www.epa.gov/safewater/hotline/index.
html](http://www.epa.gov/safewater/hotline/index.html) or 1-800-426-4791

Stratospheric Ozone Protection Hotline

www.epa.gov/ozone or 1-800-296-1996

Toxic Substances Control Act (TSCA) Hotline
tsc hotline@epa.gov or 1-202-554-1404

Wetlands Information Helpline
www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828

State and Tribal Web-Based Resources

State Resource Locators
www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)
www.smallbiz-enviroweb.org

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits. The website is a central point for sharing resources between EPA and states.

EPA's Tribal Compliance Assistance Center
www.epa.gov/tribalcompliance/index.html

The Center provides material to Tribes on environmental stewardship and regulations that might apply to tribal government operations.

EPA's Tribal Portal
www.epa.gov/tribalportal/

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy
www.epa.gov/compliance/incentives/smallbusiness/index.html

This Policy offers small businesses special incentives to come into compliance voluntarily.

EPA's Audit Policy
www.epa.gov/compliance/incentives/auditing/auditpolicy.html

The Policy provides incentives to all businesses that voluntarily discover, promptly disclose and expeditiously correct their noncompliance.

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247), or go to their website at www.sba.gov/ombudsman.

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

CERTIFICATE OF MAILING

I, Kathy Jones, certify that I sent a Notice of Violation, No. EPA-5-17-IN-03, by

Certified Mail, Return Receipt Requested, to:

Randy Graves, EHS Manager
MGPI of Indiana, LLC
7 Ridge Avenue
Lawrenceburg, Indiana 47025

7014 2870 0001 9578 8926

Steve Glaser, Vice President of Production and Engineering
MGP Ingredients, Inc.
P.O. Box 130
Atchison, Kansas 66002

7014 2870 0001 9578 8933

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

Phil Perry, Chief
Air Compliance Branch
Indiana Department of Environmental Management
pperry@idem.in.gov

On the 22 day of December 2016.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: _____