west virginia department of environmental protection

Division of Air Quality
601 57th Street SE
Charleston, WV 25304
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Earl Ray Tomblin, Governor
Randy C. Huffman, Cabinet Secretary
www.dep.wv.gov

January 10, 2014

CERTIFIED MAIL
Article # 91 7108 2133 3938 4325 3058

Freedom Industries, Inc.
Mr. Gary Southern, President
P.O. Box 713
Charleston, WV 25328

RE: NOTICE OF VIOLATION(S)
Freedom Industries, Inc.
WV ID# 039-00035

Dear Mr. Southern:

On January 9, 2014, an odor investigation was conducted in public areas along the I-77 corridor, north of Bigley Ave. to south of the I-77/I-79 split, by personnel of the Division of Air Quality (DAQ). The investigation was prompted by citizen complaints of objectionable odors in those areas, which are near and downriver of the Freedom Industries, Inc. The investigation established that Freedom Industries, Inc. facility located in Charleston, WV is in violation of the West Virginia Code §§ 22-5-3 for causing statutory air pollution by discharging into the air MCHM. Also, Freedom Industries, Inc. is in violation of 45 CSR 4, in particular, Section 3.1, which states "No person shall cause, suffer, allow or permit the discharge of air pollutants which cause or contribute to an objectionable odor at any location occupied by the public." Specifically, objectionable odors were determined to be in public areas at intersections including Bigley Ave. & Westmoreland Dr. and Bigley Ave. & Pennsylvania Ave. Following the aforementioned odor patrol, DAQ personnel discovered that the source of these odors were from a continuously leaking Crude MCHM Tank (No. 396) at the Freedom Industries, Inc. facility. Upon arrival at Freedom Industries, Inc. facility at 11:10 am, 01/09/2014, DAQ personnel discovered that no spill containment measures had been initiated and that an accumulating MCHM leak pool was seeping thru a dike wall adjacent to the Elk River and a downriver oil sheen was observed.

You should be aware that for each violation your Company may be subject to civil and/or criminal penalties and further action or remedies as provided by West Virginia Code §§ 22-5-6, which may include imposition of a civil penalty of up to ten thousand ($10,000) dollars per day for each violation.

A written response to this Notice of Violation is required from your Company within 30 days after receipt. The following information must be in your response to the Notice of Violation:

(1) A detailed explanation of the cause(s) of the condition(s) leading to the cited violation or a description of the action(s) being taken or to be taken to ascertain the cause(s) for noncompliance.

(2) A statement of how long the condition(s) has existed.

(3) A detailed explanation of the remedial measures that have been taken and will be taken to address the causes of noncompliance. For any remedial measure(s) not yet taken, provide expected date(s) for completion. If all remedial measures have been completed, provide the date that the Company believes that compliance with air quality requirements was achieved.

Please be aware that any person who knowingly misrepresents any material fact in an application, record, report, plan, or other document filed or required to be maintained under the provisions of West Virginia Code 22-5-1, et seq., or any rules promulgated thereunder, is guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five thousand ($25,000) dollars or imprisoned in the county jail not more than six months or both fined and imprisoned.

Furthermore, any person who knowingly violates any provision of West Virginia Code 22-5-1, et seq., any permit or any rule or order issued pursuant to that article is guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five thousand ($25,000.00) dollars for each day of such violation or imprisoned in the county jail not more than one year or both fined and imprisoned.

Further, please note that for purpose of the foregoing, violations on separate days are separate offenses.

The Division looks forward to your timely written response to this Notice of Violation.

John A. Benedict
Director

cc:

Mr. Dave McCombie
Chemstream
166 Commerce Drive
Stoystown, Pa, 15563

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