



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUL 24 2000

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Skiles W. Boyd, Vice President
Environmental Management & Resources
DTE Energy
One Energy Plaza
Detroit, Michigan 48226-1279

RE: Notice and Finding of Violation issued to DTE Energy

Dear Mr. Boyd:

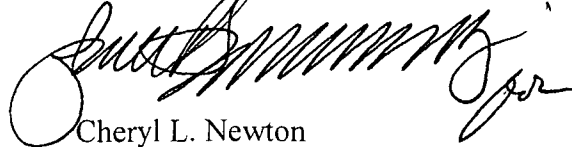
The U. S. Environmental Protection Agency is issuing the enclosed Notice of Violation and Finding of Violation (NOV/FOV) to DTE Energy (DTE). This NOV/FOV is issued in accordance with Section 113(a) of the Clean Air Act (the Act), 42 U.S.C. § 7413(a).

EPA has determined that DTE is violating the Prevention of Significant Deterioration requirements, Section 165 of the Act, 42 U.S.C. § 7475, Non-attainment New Source Review, Sections 171-193 of the Act, 42 U.S.C. §§ 7501-7515, New Source Performance Standards, Section 111 of the Act, 42 U.S.C. § 7411, the Operating Permit requirements under Title V of the Act, 42 U.S.C. §§ 7661 – 7661e, and the Michigan State Implementation Plan (SIP) at its Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants.

EPA is offering you an opportunity to confer with us about the violations cited in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violations, and the steps you will take to bring the facilities into compliance. Please plan for your 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 EPA contact in this matter is Ethan Chatfield. You may call him at (312) 886-5112 to request a conference. You should make your request for a conference no later than 10 calendar days after you receive this letter, and we should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Cheryl L. Newton', written over a circular mark.

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Joseph Polito, Attorney
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, Michigan 48226-3506

Lee Johnson, Attorney
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, Michigan 48226-3506

Tom Hess, Supervisor
Compliance and Enforcement Section
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Teresa Seidel, District Supervisor
Michigan Department of Environmental Quality
Southeast Michigan District Office
27700 Donald Court
Warren, Michigan 48092-2793

Jack Larsen, District Supervisor
Michigan Department of Environmental Quality
State Office Building, 4th Floor
301 E. Louis B. Glick Highway
Jackson, Michigan 49201

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

**DTE Energy
Detroit, Michigan**

)
)
)
) **Proceedings Pursuant to**
) **Section 113(a)(1) and (a)(3) of the**
) **Clean Air Act,**
) **42 U.S.C. §7413(a)(1) and (a)(3)**
)
) **EPA-5-09-MI-10**
)
)
)

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice and Finding of Violation (Notice) under Section 113(a)(1) of the Clean Air Act, 42 U.S.C. § 7413(a)(1). The authority to issue this Notice has been delegated to the Regional Administrator of the U.S. Environmental Protection Agency Region 5, and redelegated to the Director, Air and Radiation Division. EPA finds that DTE Energy (DTE) is violating the Clean Air Act (Act), 42 U.S.C. §§ 7401 *et seq.*, at its Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants, as follows:

STATUTORY AND REGULATORY BACKGROUND

Prevention of Significant Deterioration

1. When the Act was passed in 1970, Congress exempted existing facilities, including the coal-fired power plants that are the subject of this Notice, from many of its requirements. However, Congress also made it quite clear that this exemption would not last forever. As the United States Court of Appeals for the D.C. Circuit explained in *Alabama Power v. Costle*, 636 F.2d 323, 400 (D.C. Cir. 1979), "[t]he statutory scheme intends to 'grandfather' existing industries; but...this is not to constitute a perpetual immunity from all standards under the PSD program." Rather, the Act requires grandfathered facilities to install modern pollution control devices whenever the unit is proposed to be modified in such a way that its emissions may increase.

2. On June 19, 1978, EPA promulgated regulations pursuant to Part C of Title I of the Act. 43 *Fed. Reg.* 26403 (June 19, 1978).

3. The Prevention of Significant Deterioration (PSD) provisions of Part C of Title I of the Act establish specific provisions applicable to the construction and modification of sources located

in areas designated as either attainment or unclassifiable for purposes of meeting the NAAQS. *See* 42 U.S.C. §§ 7470-7492. These statutory provisions and their implementing regulations at 40 C.F.R. § 52.21¹, collectively known as the PSD program, provide that if a major stationary source located in an attainment area is planning to make a major modification, then that source must obtain a PSD permit before beginning actual construction. *See* 40 C.F.R. § 52.21(i). To obtain this permit, the source must, among other things, undergo a technology review and apply Best Available Control Technology (BACT); perform a source impact analysis; perform an air quality analysis and modeling; submit appropriate information; and conduct additional impact analyses as required.

4. EPA delegated the State of Michigan the authority to issue PSD permits using the federal PSD rules at 40 CFR 52.21 (via delegation letter dated September 26, 1988).

5. On September 16, 2008, EPA conditionally approved the State of Michigan's PSD program under 40 CFR 52.21 (effective October 16, 2008). 73 *Fed. Reg.* 53366.

6. 40 C.F.R § 52.21(i)(1) provides that "no stationary source or modification to which the requirements of paragraphs (j) through (r) of this section apply shall begin actual construction without a permit that states that the stationary source or modification would meet those requirements."

7. 40 C.F.R § 52.21(i)(2) provides that "the requirements of paragraphs (j) through (r) of this section apply to any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act"

8. 40 C.F.R § 52.21(b)(1)(i)(a) defines a "major stationary source" as, among other things, "a fossil fuel-fired steam electric plant of more than 250 million British Thermal Units per hour (mmbtu/hr) heat input" that "emits, or has the potential to emit, 100 tons per year (tpy) or more of any pollutant subject to regulation under the Act."

9. 40 C.F.R § 52.21(b)(2)(i) defines a "major modification" as "any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase" of a regulated pollutant.

Non-attainment New Source Review

10. Part D of Title I of the Act, 42 U.S.C. §§ 7501-7515, sets forth provisions for New Source Review ("NSR") requirements for areas designated as being in non-attainment with the NAAQS standards. These provisions are referred to herein as the "Non-attainment NSR" program. The Non-attainment NSR program is intended to reduce emissions of air pollutants in areas that have not attained NAAQS so that the areas make progress towards meeting the NAAQS. Prior to the effective date of the 1990 Clean Air Act Amendments, P. Law 101-549, effective November 15, 1990, the Non-attainment NSR provisions were set forth at 42 U.S.C. §§

¹ On December 31, 2002, EPA amended 40 C.F.R. § 52.21, commonly known as New Source Review (NSR) Reform. 67 *Fed. Reg.* 80185. The PSD regulatory citations used in this Notice are the pre-NSR Reform codification. The PSD regulations applicable to utilities prior to 2003 did not change with NSR Reform.

7501-7508.

11. Under Section 172(c)(5) of the Non-attainment NSR provisions of the Act, 42 U.S.C. § 7502(c)(5), each state is required to adopt Non-attainment NSR SIP rules that include provisions to require permits that conform to the requirements of Section 173 of the Act, 42 U.S.C. § 7503, for the construction and operation of modified major stationary sources within non-attainment areas. Section 173 of the Act, in turn, sets forth a series of minimum requirements for the issuance of permits for major modifications to major stationary sources within non-attainment areas. 42 U.S.C. § 7503.

12. Section 173(a) of the Act, 42 U.S.C. 7503(a), provides that construction and operating permits may be issued if, *inter alia*: “(a) sufficient offsetting emission reductions have been obtained to reduce existing emissions to the point where reasonable further progress towards meeting the national ambient air quality standards is maintained; and (b) the pollution controls to be employed will reduce emissions to the lowest achievable emission rate.”

13. Under 40 C.F.R. Part 51, Appendix S, Emission Offset Interpretative Ruling, no person may undertake a major modification of an existing major stationary source in a non-attainment area without first obtaining a Non-attainment NSR permit.

14. Under Appendix S, a “major stationary source” of NO_x is one that emits or has the potential to emit 100 tons per year or more, and a “significant” net emissions increase of NO_x is one that results in increased emissions of 40 tons per year or more of this pollutant.

15. “Major modification” is defined by 40 C.F.R. Part 51, Appendix S, as “any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Act.”

New Source Performance Standards

16. Under Section 111 of the Act, 42 U.S.C. § 7411, the Administrator promulgated the New Source Performance Standards (NSPS) General Provisions, at 40 C.F.R. Part 60, Subpart A, and the “Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978,” codified at 40 C.F.R. Part 60, Subpart Da. Subpart Da applies to each electric utility steam generating unit capable of combusting more than 73 megawatts (250 million Btu per hour) heat input of fossil fuel (alone or in combination with any other fuel). 40 C.F.R. § 60.40a(a)(1).

17. 40 C.F.R. § 60.14(a) provides that “...any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere.”

Michigan State Implementation Plan - Opacity Standard

18. Pursuant to R 336.1301 (Opacity Limitations), “a person shall not cause or permit to be discharged into the outer air from a process or process equipment a visible emission of a density greater than the most stringent of the following: (a) a 6-minute average of 20 percent opacity, except for one 6-minute average per hour of not more than 27 percent opacity. (b) A limit specified by an applicable federal new source performance standard. (c) A limit specified as a condition of a permit to install or permit to operate.” *See also*, Monroe Station Title V Permit condition A.2; St. Clair Station Title V Permit condition A-1.2; Belle River Station Title V Permit condition A-3.2; River Rouge Station Title V Permit condition A.2; and Trenton Channel Station Title V Permit condition A.2.

Title V Requirements

19. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), provides that no source may operate 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 71.

20. Section 503 of the CAA, 42 U.S.C. § 7661b, sets forth the requirement to timely submit an application for a permit, including information required to be submitted with the application.

21. Section 504(a) of the CAA, 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 implementation plan. 42 U.S.C. § 7661c(a).

22. 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 also* R 336.1211 of the Michigan Air Pollution Control Rules.

23. 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 . . .”

24. 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* R 336.1210 of the Michigan Air Pollution Control Rules.

25. 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* R 336.1210 of the Michigan Air Pollution Control Rules.

26. 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 a complete application but prior to release of a draft permit.” *See also* R 336.1210(2)(b) of the Michigan Air Pollution Control Rules.

Michigan’s Title V Requirements

27. EPA promulgated final interim approval of Michigan’s Title V program on January 10, 1997. *See* 62 *Fed. Reg.* 1387 (effective February 10, 1997) and 62 *Fed. Reg.* 34010 (effective July 18, 1997). EPA promulgated full approval of Michigan’s Title V program on December 4, 2001. *See* 66 *Fed. Reg.* 62949. Michigan’s Title V program became effective on November 30, 2001.

28. The Michigan regulations governing the Title V permitting program are codified at R 336, and are federally enforceable pursuant to Section 113(a)(3).

29. R 336-1213(2) provides that the Title V permit “shall include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at time of issuance.”

30. R 336-1210(1) provides that “a person shall not operate any emission unit located at a stationary source required to obtain a renewable operating permit under R 336.1211, except in compliance with all applicable terms and conditions of a renewable operating permit, unless a timely and administratively complete application for a renewable operating permit has been received by the department in accordance with the following provisions of [R 336.1210].”

31. R 336-1210(2)(b) provides that “any person who fails to submit any relevant facts or who has submitted incorrect information in an application for a renewable operating permit ... shall upon becoming aware of the failure or incorrect submittal promptly submit all supplementary facts or corrected information. Each submittal of any relevant facts or corrected information shall include a certification by a responsible official which states that, based on information and belief formed after a reasonable inquiry, the statements in the submittal are true, accurate, and complete.”

FACTUAL BACKGROUND

32. DTE is incorporated in Michigan.

33. DTE is a “person,” as that term is defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

34. From April 5, 2005, to present, the Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants were located in areas classified as non-attainment for fine particulates (PM_{2.5}).

35. From August 7, 1987, to October 3, 1996, the River Rouge and Trenton Channel Power Plants were located in areas classified as non-attainment for particulate matter 10 micrometers in diameter or less (PM₁₀).

36. The Monroe Power Plant is a fossil fuel-fired electric utility steam generating station located in Monroe County, Michigan, and has the potential to emit more than 100 tons per year each of NO_x, SO₂, and particulate matter (PM). The plant consists of four cell burner boilers originally constructed in the early 1970s. Each boiler is connected to a turbine generator with a capacity of 750 to 795 megawatts (MWs).

37. The St. Clair Power Plant is a fossil fuel-fired electric utility steam generating station located in St. Clair County, Michigan, and has the potential to emit more than 100 tons per year each of NO_x, SO₂, and PM. The St. Clair plant consists of six operational coal-fired units. Units 1-4 are dry-bottom wall-fired boilers which commenced operation in or around 1953 and are each connected to an approximately 160 MW turbine generator. Unit 5, a 300 MW cyclone boiler was taken out of service in 1979. Units 6 and 7 are tangentially-fired boilers which commenced operation in or around 1961 and 1969 and are connected to a 320 MW and a 450 MW turbine, respectively.

38. The River Rouge Power Plant is a fossil fuel-fired electric utility steam generating station located in Wayne County, Michigan, and has the potential to emit more than 100 tons per year each of NO_x, SO₂, and PM. The River Rouge plant consists of two operating coal-fired units, which occasionally co-fire blast furnace gas from the nearby steel mill. Unit 2 is a tangentially-fired boiler which began operation in or around 1957 and is connected to a 260 MW turbine. Unit 3 is a dry-bottom wall-fired boiler which commenced operation in or around 1958 and is connected to a 300 MW turbine. Unit 1, a 260 MW dry-bottom wall-fired boiler was taken out of service in the early 1980s and repowered on natural gas in or around 2000.

39. The Belle River Power Plant is a fossil fuel-fired electric utility steam generating station located next to the St. Clair Power Plant in St. Clair County, Michigan, and has the potential to emit more than 100 tons per year each of NO_x, SO₂, and PM. The Belle River plant consists of two operating coal-fired units. Units 1 and 2 are dry-bottom wall-fired boilers which commenced construction in 1978 and began operation in 1984 and 1985, respectively. Each unit is connected to an approximately 630 MW turbine.

40. The Trenton Channel Power Plant is a fossil fuel-fired electric utility steam generating station located in Wayne County, Michigan, and has the potential to emit more than 100 tons per year each of NO_x, SO₂, and PM. The Trenton Channel plant consists of five operating coal-fired units. The four smaller tangentially-fired boilers (referred to as units 16 through 19) are connected to two-120 MW turbines that commenced operation in 1949 and 1950, respectively. The larger unit 9A is a tangentially-fired boiler that began operation in 1968 and is connected to a 520 MW turbine.

41. The Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants are each “fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour.” Therefore, each of these plants constitutes a “major stationary source” within the meaning of 40 C.F.R. § 52.21(b)(1)(i)(a); and a “major emitting facility” within the meaning of Section 169(1) of the Act, 42 U.S.C. § 7479(1).

42. DTE completed physical changes and/or changes in the method of operation at its Monroe Electrical Generating Station Unit 1, Unit 2, Unit 3, and Unit 4 as described in the attached Appendix A.

43. DTE completed physical changes and/or changes in the method of operation at its Belle River Electric Generating Station Unit 1 and Unit 2, as described in the attached Appendix B.

44. DTE completed physical changes and/or changes in the method of operation at its River Rouge Electric Generating Station Unit 2 and Unit 3, as described in the attached Appendix C.

45. DTE completed physical changes and/or changes in the method of operation at its St. Clair Generating Station Unit 2, Unit 3, Unit 4, Unit 6, and Unit 7 as described in Appendix D.

46. DTE completed physical changes and/or changes in the method of operation at its Trenton Channel Generating Station Unit 17, Unit 18, Unit 19, and Unit 9A as described in Appendix E.

47. Based upon review of Part 70 Operating Permit Quarterly Deviation and Compliance Monitoring Reports submitted by Detroit Edison for Monroe power plant for 1st Quarter 2004 to 3rd Quarter 2008, the facility reported the exceedances of the 20 percent, 6-minute average opacity limitation contained in Table 1 below.

Table 1: Minutes of Violations of Opacity Limit for Monroe Station:

Quarter/Year	Stack #1	Stack #2
1st Q. 2004	636	444
2nd Q. 2004	618	540
3rd Q. 2004	426	66
4th Q. 2004	630	282
1st Q. 2005	432	330
2nd Q. 2005	654	84
3rd Q. 2005	822	216
4th Q. 2005	282	306
1st Q. 2006	330	714
2nd Q. 2006	312	258
3rd Q. 2006	342	408
4th Q. 2006	282	312
1st Q. 2007	210	72
2nd Q. 2007	138	84
3rd Q. 2007	96	96
4th Q. 2007	414	120
1st Q. 2008	342	222
2nd Q. 2008	228	276
3rd Q. 2008	120	252
4th Q. 2008	report not provided	

48. Based upon review of Part 70 Operating Permit Quarterly Deviation and Compliance Monitoring Reports submitted by Detroit Edison for Belle River power plant for 1st Quarter 2004 to 4th Quarter 2007, the facility reported the exceedances of the 20 percent, 6-minute average opacity limitation contained in Table 2 below.

Table 2: Minutes of Violations of Opacity Limit for Belle River Station:

Quarter/Year	Unit #1	Unit #2
1st Q. 2004	30	102
2nd Q. 2004	312	84
3rd Q. 2004	36	18
4th Q. 2004	138	138
1st Q. 2005	138	126
2nd Q. 2005	6	42
3rd Q. 2005	48	36
4th Q. 2005	150	162
1st Q. 2006	78	18

2nd Q. 2006	84	48
3rd Q. 2006	204	0
4th Q. 2006	228	90
1st Q. 2007	240	174
2nd Q. 2007	18	24
3rd Q. 2007	48	54
4th Q. 2007	84	90

49. Based upon review of Part 70 Operating Permit Quarterly Deviation and Compliance Monitoring Reports submitted by Detroit Edison for River Rouge power plant for 1st Quarter 2004 to 4th Quarter 2008, the facility reported the exceedances of the 20 percent, 6-minute average opacity limitation contained in Table 3 below.

Table 3: Minutes of Violations of Opacity Limit for River Rouge Station:

Quarter/Year	Unit #2	Unit #3
1st Q. 2004	42	0
2nd Q. 2004	report not provided	
3rd Q. 2004	0	24
4th Q. 2004	24	24
1st Q. 2005	6	0
2nd Q. 2005	42	36
3rd Q. 2005	102	18
4th Q. 2005	12	66
1st Q. 2006	204	18
2nd Q. 2006	30	54
3rd Q. 2006	12	6
4th Q. 2006	6	0
1st Q. 2007	0	60
2nd Q. 2007	0	0
3rd Q. 2007	6	30
4th Q. 2007	6	0
1st Q. 2008	36	90
2nd Q. 2008	0	0
3rd Q. 2008	report not provided	
4th Q. 2008	0	0

50. Based upon review of Part 70 Operating Permit Quarterly Deviation and Compliance Monitoring Reports submitted by Detroit Edison for St. Clair power plant for 1st Quarter 2004 to 2nd Quarter 2008, the facility reported the exceedances of the 20 percent, 6-minute average opacity limitation contained in Table 4 below.

Table 4: Minutes of Violations of Opacity Limit for St. Clair Station:

Quarter/Year	Stack #1	Stack #2	Stack #3	Stack #4	Stack #6	Stack #7
1st Q. 2004	0	12	0	0	0	138

2nd Q. 2004	6	0	0	0	12	66
3rd Q. 2004	report not provided					
4th Q. 2004	6	6	0	0	6	270
1st Q. 2005	0	6	0	0	12	228
2nd Q. 2005	0	0	0	0	12	102
3rd Q. 2005	12	30	0	0	24	60
4th Q. 2005	0	0	0	0	126	18
1st Q. 2006	0	6	0	0	18	30
2nd Q. 2006	0	6	0	0	0	42
3rd Q. 2006	0	0	0	0	0	24
4th Q. 2006	0	0	0	12	0	42
1st Q. 2007	0	0	0	6	0	144
2nd Q. 2007	0	60	0	0	6	54
3rd Q. 2007	0	0	0	0	0	30
4th Q. 2007	72	0	0	0	0	12
1st Q. 2008	36	0	0	6	6	126
2nd Q. 2008	24	0	0	0	0	48
3rd Q. 2008	report not provided					
4th Q. 2008	report not provided					

51. Based upon review of Part 70 Operating Permit Quarterly Deviation and Compliance Monitoring Reports submitted by Detroit Edison for Trenton Channel power plant for 1st Quarter 2004 to 2nd Quarter 2008, the facility reported the exceedances of the 20 percent, 6-minute average opacity limitation contained in Table 5 below.

Table 5: Minutes of Violations of Opacity Limit for Trenton Channel Station:

Quarter/Year	Stack #6	Stack #7
1st Q. 2003	126	174
2nd Q. 2003	150	108
3rd Q. 2003	162	198
4th Q. 2003	report not provided	90
1st Q. 2004	180	96
2nd Q. 2004	120	84
3rd Q. 2004	60	66
4th Q. 2004	144	186
1st Q. 2005	66	54
2nd Q. 2005	78	108
3rd Q. 2005	24	138
4th Q. 2005	54	126
1st Q. 2006	102	78
2nd Q. 2006	132	180
3rd Q. 2006	90	126
4th Q. 2006	12	108
1st Q. 2007	48	186

2nd Q. 2007	78	258
3rd Q. 2007	36	216
4th Q. 2007	48	78
1st Q. 2008	30	24
2nd Q. 2008	276	90
3rd Q. 2008	report not provided	
4th Q. 2008	report not provided	

VIOLATIONS

Prevention of Significant Deterioration and Non-Attainment New Source Review

52. Each of the physical changes and/or changes in the method of operation identified in the attached Appendices A through E, resulted in a significant net emissions increase, as defined at 40 C.F.R. §§ 52.21(b)(3)(i) and (b)(23)(i), of SO₂, NO_x, and/or PM.

53. Each of the projects and/or changes in the method of operation identified in Appendices A through E, each constitute a “major modification,” as that term is defined at 40 C.F.R. § 52.21(b)(2)(i) and 40 C.F.R. Part 51, Appendix S.

54. For each of the modifications identified in Appendices A through E, DTE failed to obtain a PSD and/or non-attainment NSR permit as required by 40 C.F.R. § 52.21(i)(1) and 40 C.F.R. Part 51, Appendix S.

55. DTE is in violation of PSD requirements, Section 165 of the Act, 42 U.S.C. § 7475, and 40 C.F.R. § 52.21 for constructing major modifications, as identified in paragraph 53, above, to existing major sources at its Monroe, Trenton Channel, St. Clair, River Rouge, and Belle River Generating Stations, without applying for or obtaining the PSD permits and operating the modified facilities without installing the BACT or going through PSD review, and installing appropriate emission control equipment in accordance with a BACT analysis.

56. DTE is in violation of non-attainment NSR requirements, Sections 171-193 of the Act, 42 U.S.C. §§ 7501-7515, and 40 C.F.R. Part 51, Appendix S, Emission Offset Interpretative Ruling, for constructing major modifications, as identified in paragraph 53, above, to existing major sources at its Monroe, Trenton Channel, St. Clair, River Rouge, and Belle River Generating Stations without applying for a Permit to Install and operating the modified facilities without installing LAER, obtaining Federally enforceable emission offsets at least as great as the new or modified source’s emissions, certifying that all other major sources that it owns or operates are in compliance with the Act, and demonstrating that the benefits of the proposed source or modification significantly outweigh the environmental and social costs imposed as a result of its construction or modification.

Violations of the Standards of Performance for Electric Utility Steam Generating Units

57. DTE made physical and/or operational changes as defined by 40 C.F.R. 60.14 at the Trenton Channel Power Plant when it installed new coal mills and made other modifications at its Boilers 17 and 19 in or around 1994 that resulted in an increase in net generating capability for each boiler and resulting in hourly emission increases of PM, SO₂, and NO_x.

58. DTE made physical and/or operational changes as defined by 40 C.F.R. 60.14 at the River Rouge Power Plant when it replaced reheater tubes and waterwall tubes at its Unit 2 in or around 1984 that resulted in an increase in net generating capability for each boiler and resulting in an hourly emission increase of SO₂.

59. DTE made physical and/or operational changes as defined by 40 C.F.R. 60.14 at the River Rouge Power Plant when it replaced boiler burner protection tubes at its Unit 3 in or around 1982 that resulted in an increase in net generating capability for each boiler and resulting in hourly emission increases of SO₂ and NO_x.

60. DTE violated and continues to violate NSPS, Subpart Da (40 C.F.R. 60.40b) by modifying the Trenton Channel and River Rouge Power Plants, as identified in paragraphs 57 through 59 above, without installing the necessary pollution control technology to achieve, demonstrate, and maintain compliance with the applicable emission limitation under NSPS, Subpart Da.

Violations of the Title V

61. Since August 15, 1996, DTE has failed and/or continues to fail to submit timely and complete Title V permit applications for the Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants with information pertaining to the modifications identified in Appendices A through E, and with information concerning all applicable requirements, including, but not limited to, the requirement to apply, install and operate BACT or LAER for NO_x, SO₂, CO, PM, PM₁₀, and/or PM_{2.5} at the plants and also failed to supplement or correct the Title V permit applications for these plants in violation of Sections 502, 503, and 504 of the Act, 42 U.S.C. §§ 7661a, 7661b, and 7661c; the regulations at 40 C.F.R. Part 70, including, but not limited to, 40 C.F.R. §§ 70.1(b), 70.5(a), (b) and (c), 70.6 and 70.7(b), and Michigan's Renewable Operating Permit Program, R 336.

62. DTE violated the Title V permit Condition A.2 for the Monroe power plant by exceeding the 20%, 6-minute average opacity limitation.

63. DTE violated the Title V permit Condition A-1.2 for the St. Clair power plant by exceeding the 20%, 6-minute average opacity limitation.

64. DTE violated the Title V permit Condition A-3.2 for the Belle River power plant by exceeding the 20%, 6-minute average opacity limitation.

65. DTE violated the Title V permit Condition A.2 for the River Rouge power plant by exceeding the 20%, 6-minute average opacity limitation.

66. DTE violated the Title V permit Condition A.2 for the Trenton Channel power plant by exceeding the 20%, 6-minute average opacity limitation.

Violations of Michigan State Implementation Plan - Opacity

67. DTE violated R 336.1301 of the Michigan SIP at its Monroe, St. Clair, River Rouge, Belle River, and Trenton Channel power plants by exceeding the 20%, 6-minute average limitation.

ENFORCEMENT AUTHORITY

68. Section 113(a) (1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty order pursuant to Section 113(d), or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

69. 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 or Title V of the Act], the Administrator may issue an administrative penalty order 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.

Dated

7/24/09



Cheryl L. Newton
Director

Air and Radiation Division

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent a Notice of Violation and Finding of Violation, No. **EPA-5-09-MI-10**, by Certified Mail, Return Receipt Requested, to:

Skiles W. Boyd, Director of Environmental Management
Detroit Edison Company
2000 Second Ave.
Detroit, MI 48226-1279

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

Joseph Polito, Attorney
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, Michigan 48226-3506

Lee Johnson, Attorney
Honigman Miller Schwartz and Cohn LLP
660 Woodward Avenue
2290 First National Building
Detroit, Michigan 48226-3506

Thomas Hess, Unit Supervisor
Compliance and Enforcement Section
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Teresa Seidel, District Supervisor
Michigan Department of Environmental Quality
Southeast Michigan District Office
27700 Donald Court
Warren, Michigan 48092-2793

Jack Larsen, District Supervisor
Michigan Department of Environmental Quality
State Office Building, 4th Floor
301 E. Louis B. Glick Highway
Jackson, Michigan 49201

On the 24th day of July, 2009

Betty Williams

Betty Williams, Administrative
Program Assistant

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8915 9020