

Founded in 1852  
by Sidney Davy Miller

# MILLER CANFIELD

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September 14, 2016

**BY REGISTERED MAIL  
RETURN RECEIPT REQUESTED**

Mr. Daniel W. Maki  
Upper Peninsula District Supervisor  
Air Quality Division  
1504 West Washington St.  
Marquette, MI 49855

**Re: Response to August 22, 2016 Violation Notice to Northern Michigan  
University: SRN M3792**

Dear Mr. Maki:

On behalf of Northern Michigan University ("NMU" or the "University"), I am providing a response to your Violation Notice ("VN") (dated August 22, 2016). The University takes compliance with all environmental requirements very seriously, and it has long appreciated the Michigan Department of Environmental Quality Air Quality Division's ("AQD") cooperation and assistance in communicating new requirements that may affect the University. The University was, therefore, surprised that the AQD issued an allegation of violation to announce its new interpretation of a permit condition that was established in 2005 to make the University a minor source of air pollution. NMU disagrees with this new interpretation and objects to the AQD's alteration of its longstanding permitting practices, as applied to NMU, without notice or opportunity for comment.

The VN begins with a statement that based upon a review of the University's permit file, the AQD has determined that NMU is a major source of criteria pollutants and is subject to the AQD's Renewable Operating Permit program pursuant to AQD Rule 210. As the VN acknowledges, the University's Permit to Install ("PTI") No. 126-05 contains a permit limit that establishes a legally enforceable cap on all emissions from the NMU stationary source to levels below the Rule 210 applicability threshold. Nevertheless, the VN then states that the AQD has added the emissions allowed by PTI No. 29-11 to the emissions allowed by PTI No 126-05 to determine that NMU is a major source of air pollutants. The AQD's combining of the emissions allowed by the two permits disregards the plain language of PTI No 126-05, which states that the annual cap on potential emissions applies to:



All process equipment at the facility *including equipment covered by other permits*, grand-fathered equipment and exempt equipment. PTI 126-05, p 5 (emphasis added).

There is nothing in the language of either permit that would constrain the applicability of the cap on potential emissions to only those sources identified in PTI No. 126-05. Indeed, the plain language of the permit conditions expresses applicability to all sources of emissions located anywhere at the stationary source. AQD's recent determination also disregards and alters AQD's previous interpretation of the cap on potential to emit in PTI No. 126-05, which can be provided upon request.

NMU objects to all of the allegations in the August 22<sup>nd</sup> VN because these allegations are entirely based on the erroneous combining of the emissions from the two permits.

PTI No. 126-05 contains a valid annual, legally enforceable cap on potential emissions from all equipment that may emit an air contaminant, which is located anywhere within the University. The following table, which consists of data previously reported to AQD, shows that the University's actual emissions have always been well below the PTI No. 126-05 cap:

<b>Year</b>	<b>Actual SO2 Emissions (Tons)</b>	<b>Actual NOx Emissions (Tons)</b>	<b>Stationary Source Cap in PTI 126-05</b>
2011	0.1	5.5	99.9 tons SO2 99.9 tons NOx
2012	0.1	13.2	99.9 tons SO2 99.9 tons NOx
2013	1.2	22.3	99.9 tons SO2 99.9 tons NOx
2014	2.4	28.8	99.9 tons SO2 99.9 tons NOx
2015	0.1	17.2	99.9 tons SO2 99.9 tons NOx

The actual emission history further demonstrates that the University has been and continues to be a minor source of air pollution that is not required to obtain a Renewable Operating Permit under AQD Rule 210.

Nevertheless, the University understands that the VN signals the AQD's concern with the permit. As the above emission summary clearly demonstrates, there is no need for a Renewable Operating Permit for this minor source. The University is, however, willing to submit a new

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application for an opt out permit consolidating all limits on potential to emit into a single permit. The University plans to submit this application by October 31, 2016.

Please contact me if you have any questions.

Respectfully submitted,

Miller, Canfield, Paddock and Stone, P.L.C.

By:   
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PMC

cc:

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