



Jeremiah W. (Jay) Nixon, Governor • Mark N. Templeton, Director

# DEPARTMENT OF NATURAL RESOURCES

[www.dnr.mo.gov](http://www.dnr.mo.gov)

MAR 08 2010

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RETURN RECEIPT REQUESTED**

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Superfund

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Mr. Murphy J. Maxwell  
T. J. Metals  
10272 Radio Station Road  
Cedet, MO 63630

RE: Notices of Violation #409BN01AP, #210BN01AP, #210BN02AP

Dear Mr. Maxwell:

The Missouri Department of Natural Resources is the state agency charged by statute with protecting and preserving Missouri's environment and ensuring responsible use of the state's natural resources. Part of this responsibility includes enforcing state and federal environmental laws and regulations designed to protect air quality and public health pursuant to the Missouri Air Conservation Law, Chapter 643 of the Revised Statutes of Missouri.

#### Details of observed violations

The Department's Air Pollution Control Program (APCP) requested T. J. Metals submit an Emissions Inventory Questionnaire (EIQ) within 45 days on January 28, 2009. T. J. Metals failed to submit the document. Failure to abide by the request for the EIQ is a violation of state regulation. On April 7, 2009, the APCP issued Notice of Violation (NOV) # 409BN01AP to T. J. Metals and on April 9, 2009, the APCP required T.J. Metals to submit an EIQ for 2008 as well as a compliance plan by May 15, 2009. The APCP received the EIQ on October 26, 2009.

Missouri state law section 643.079, RSMo., "Fees, Amount-Deposit of Moneys, Where, Sub account to be Maintained-Civil Action for Failure to Remit Fees, Effect Upon Permit-Agencies, Determination of Fees," and Missouri Air Conservation Commission regulation 10 CSR 10-6.110, "Submission of Emission Data, Emission Fees and Process Information," require an air contaminant source to submit an EIQ when formally requested by the APCP.

On February 22, 2010, staff from the APCP visited the facility at 10272 Radio Station Road. Mrs. Thelma Maxwell gave access to the property. The preliminary calculations performed by APCP staff indicate the potential lead and particulate matter emissions require the facility obtain a construction permit. T. J. Metals has failed to do this. Therefore the APCP hereby issues NOV #210BN01AP for this violation. The APCP therefore advises T.J. Metals cease operations of the lead

Mr. Murphy J. Maxwell

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processing facility until such time as the APCP issues a construction permit. In order to partially resolve this issue T.J. Metals must submit a letter stating the facility will shut down the facility and that you will submit a construction permit application to the APCP. Please submit the letter of intent by **March 15, 2010**.

On February 22, 2010, APCP staff also found evidence of open burning of trade waste and tires for disposal and open burning of wire, possibly for metal salvage, on the property. Open burning of trade waste or salvage waste is illegal under State Regulation 10 CSR 10-6.045, "*Open Burning Requirements*." Therefore the APCP hereby issues NOV # 210BN02AP for violation of the open burning regulations. In order to partially resolve this issue T.J. Metals must cease open burning of trade waste immediately. T. J. Metals must also submit a compliance plan detailing how the facility will properly dispose of waste in the future.

**Additional Information**

Enclosed are copies of the open burning rule, a fact sheet on open burning, and a fact sheet on managing construction and demolition waste. You may find these fact sheets on the Department's web site at <http://www.dnr.mo.gov/pubs/pub2047.pdf> and <http://www.dnr.mo.gov/pubs/pub2045.pdf>. You may find environmental regulations at <http://www.sos.mo.gov/adrules/csr/csr.asp>.

Burning trash, including untreated wood, in the open produces at least some of the following pollutants: dioxins, particulate, polycyclic aromatic hydrocarbons, volatile organic compounds, carbon monoxide, hexachlorobenzene, and ash. Inhaling or ingesting even small amounts of these pollutants can cause a number of health-related conditions. Small children, the elderly, or people with preexisting respiratory conditions can be especially vulnerable to some of these pollutants. For more information on the health effects of burning, we recommend the web site, [www.epa.gov/msw/backyard](http://www.epa.gov/msw/backyard).

Please note fire departments may issue burn permits or authorize burning, but in no circumstance may the conditions of such approvals be less stringent than state regulation. Should local permits or authorization allow the burning of materials prohibited under the state rule, the city or fire department would incur regulatory liability together with the party responsible for the fire.

**Settlement**

The Missouri Air Conservation Law provides for civil penalties not to exceed \$10,000 per day, per violation. The Department would like to reach an expeditious resolution to this matter and avoid costly litigation. Toward that end, the Department is willing to meet with you to attempt to negotiate a mutually agreeable penalty.

In the case of NOVs # 409BN01AP, #210BN01AP, and #210BN02AP the APCP is offering to settle out of court for a civil penalty of \$10,000. In negotiating an appropriate penalty, the Department will take into consideration your compliance history, your cooperation in resolving the violations and in

Mr. Murphy J. Maxwell

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mitigating any environmental impacts, and other factors that justify a lesser penalty. If you prefer to consult an attorney, it may be helpful, but it is not required to reach a reasonable resolution in this matter.

If we can reach agreement on an appropriate penalty, the Department will ask the state Attorney General's Office to draft an out-of-court settlement agreement to be signed by you, the Department and the Attorney General's Office detailing the terms of the agreement. Such an agreement will avoid the time and expense of litigation and provide the quickest route to compliance and resolution of this issue. Any civil penalties you pay as part of this agreement will be deposited in the Washington County School Fund pursuant to the Missouri Constitution.

Please understand that it is in your best interest to contact us in response to this letter by **March 15, 2010**. Should you fail to respond to this letter, your lack of a response is assumed to be a refusal to negotiate a settlement, which leaves us with no option but to seek referral of these violations to the Attorney General to pursue litigation. If you have questions regarding this letter, please contact me at the Department's Air Pollution Control Program, P. O. Box 176, Jefferson City MO 65102-0176 or at (573) 751-4817. You may obtain information concerning the Department's Air Pollution Control Program at the following Internet address: [www.dnr.mo.gov](http://www.dnr.mo.gov).

Sincerely,

AIR POLLUTION CONTROL PROGRAM



Brian D. Newby  
Environmental Specialist

BDN:tt

c: Southeast Regional Office

Kathy Flippin, HWP

Steve Feeler, DEQ

Jeffrey G. Weatherford, P.E., U.S. EPA, 212 Little Bussen Drive, Fenton, MO 63026



MISSOURI DEPARTMENT OF NATURAL RESOURCES  
AIR POLLUTION CONTROL PROGRAM  
**NOTICE OF VIOLATION/EXCESS EMISSIONS**

P.O. BOX 176  
JEFFERSON CITY MO 65102

<b>VIOLATION NUMBER</b>	
NO. 210BN02	AP

NOTICE OF VIOLATION  NOTICE OF EXCESS EMISSIONS

DATE AND TIME

02/25/2010

AM  
 PM

SOURCE (NAME, ADDRESS, LOCATION)

T.J. Metals  
10272 Radio Station Raod  
Cadet, MO 63630

MAILING ADDRESS  10272 Radio Station Road	CITY  Cadet	STATE  MO	ZIPCODE  63630
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NAME OF OWNER OR MANAGER

Murphy J. Maxwell, Thelma Maxwell

IN VIOLATION OF MISSOURI AIR CONSERVATION COMMISSION REGULATION 10CSR 10-

**6.045 Open Burning Requirements.**

REMARKS ON NATURE OF VIOLATION

During an inspection of the site investigators found evidence of open burning of trade waste.

SIGNATURE (PERSON RECEIVING NOTICE)	SIGNATURE (PERSON ISSUING NOTICE) 
TITLE OR POSITION	TITLE OR POSITION  Brian D. Newby, Environmental Specialist IV

**PURPOSE:** This rule, applicable to all installations in the State of Missouri, provides the owner or operator of an installation the opportunity to submit data regarding conditions which resulted in excess emissions. These submittals will be used by the director to determine whether the excess emissions were due to a start-up, shutdown or malfunction condition. Such determinations will be the basis for further enforcement action.

**(1) General Provisions**

(A) Upon receipt of a notice of excess emissions issued by the Missouri Department of Natural Resources or any agency holding a certificate of authority under Section 203.140, RSMo., the source to which the notice is issued may provide information showing that the excess emissions were the consequence of a malfunction, start-up, or shutdown. Based upon any information submitted by the source operator, and any other pertinent information available, the director or the commission shall make a determination whether the excess emissions constitute a malfunction, start-up, or shutdown, and whether the nature, extent and duration of the excess emissions warrant enforcement action under Sections 203.080 or 203.151, RSMo. In determining whether enforcement action is warranted, the director or commission shall consider the following factors:

1. Whether the excess emissions during start-up, shutdown, or malfunction, occurred as a result of safety, technological or operating constraints of the control equipment, process equipment, or process.
2. Whether the air pollution control equipment, process equipment, or processes were, at all times, maintained and operated to the maximum extent practical, in a manner consistent with good practice for minimizing emissions.
3. Whether repairs were made as expeditiously as practicable when the operator knew or should have known when excess emissions were occurring.
4. Whether the amount and duration of the excess emissions were limited to the maximum extent practical during periods of such emissions.
5. Whether all practical steps were taken to limit the impact of the excess emissions on the ambient air quality.

(B) The information provided by the source operator under subsection (1) (A) shall include, at a minimum, the following:

1. Name and location of installation;
2. Name and telephone number of person responsible for the installation;
3. The identity of the equipment causing the excess emissions;
4. The time and duration of the period of excess emissions;
5. The cause of the excess emissions;
6. The type of air contaminant involved;
7. A best estimate of the magnitude of the excess emissions expressed in the units of the applicable emission control regulation and the operating data and calculations used in estimating the magnitude;
8. The measures taken to mitigate the extent and duration of the excess emissions.
9. The measures taken to remedy the situation which caused the excess emissions and the measures taken or planned to prevent the recurrence of such situations.

(C) The information specified in subsection (1) (B) shall be submitted to the director not later than 15 days after receipt of the notice of excess emissions.

(D) Nothing in this regulation shall be construed to limit the authority of the director or the commission to take appropriate action under Sections 203.080, 203.090 and 203.151, RSMo., to enforce the provisions of the Air Conservation Law and the regulations promulgated thereunder.

Auth: section 203.050 RSMo (1975). Original rule filed March 15, 1979, effective Nov. 11, 1979.



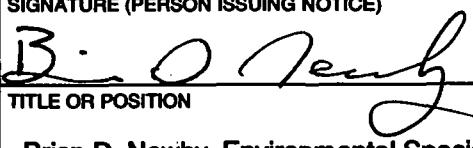
MISSOURI DEPARTMENT OF NATURAL RESOURCES  
AIR POLLUTION CONTROL PROGRAM  
NOTICE OF VIOLATION/EXCESS EMISSIONS

P.O. BOX 176  
JEFFERSON CITY MO 65102

VIOLATION NUMBER

NO. 210BN01

AP

<input checked="" type="checkbox"/> NOTICE OF VIOLATION <input type="checkbox"/> NOTICE OF EXCESS EMISSIONS		DATE AND TIME 02/25/2010 <input type="checkbox"/> AM <input type="checkbox"/> PM
SOURCE (NAME, ADDRESS, LOCATION) <p>T.J. Metals 10272 Radio Station Raod Cadet, MO 63630</p>		
MAILING ADDRESS <p>10272 Radio Station Road</p>	CITY <p>Cadet</p>	STATE <p>MO</p>
ZIPCODE <p>63630</p>		
NAME OF OWNER OR MANAGER <p>Murphy J. Maxwell, Thelma Maxwell</p>		
IN VIOLATION OF MISSOURI AIR CONSERVATION COMMISSION REGULATION 10CSR 10-		
<p><b>6.060 Construction Permits Required</b></p>		
REMARKS ON NATURE OF VIOLATION <p>Facility meets the definition of a refuse burning incinerator found in 10 CSR 10-020, Definitions and Common Reference Tables and is therefore required to obtain a construction permit. T. J. Metals failed to obtain a construction permit prior to operation.</p>		
SIGNATURE (PERSON RECEIVING NOTICE)	SIGNATURE (PERSON ISSUING NOTICE) 	
TITLE OR POSITION	TITLE OR POSITION <p>Brian D. Newby, Environmental Specialist IV</p>	

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