

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	NOTICE OF VIOLATION
)	
Magnesium Refining)	EPA-5-99-OH-11
Technologies, Inc.)	
301 Sandusky County Road 177)	
Bellevue, Ohio 44811)	
)	
Proceedings Pursuant to)	
Section 113 of the Clean Air Act,)	
42 U.S.C. § 7413)	

NOTICE OF VIOLATION

Pursuant to Section 113(a)(1) of the Clean Air Act ("Act"), 42 U.S.C. § 7413(a)(1), the State of Ohio and Magnesium Refining Technologies, Inc. ("MagReTec") are hereby notified that the Administrator of the United States Environmental Protection Agency ("U.S. EPA"), by authority duly delegated to the undersigned, finds MagReTec, at MagReTec's facility located in Bellevue, Ohio, in violation of the federally approved Ohio State Implementation Plan ("Ohio SIP") adopted pursuant to Section 110 of the Act, 42 U.S.C. § 7410. Specifically, MagReTec is in violation of the Ohio Administrative Code ("OAC") Rules 3745-31-02 and 3745-31-05(D) for failure to employ the Best Available Technology ("BAT") for PM₁₀ as required in the permit to install ("PTI") issued May 30, 1997. MagReTec is also in violation of OAC Rule 3745-31-02 and 3745-35-02 because MagReTec failed to apply for a Permit-To-Operate ("PTO") within 30-days after start-up as required by the PTI issued May 30, 1997 and is presently operating without a PTO.

1. Section 110 of the Act, 42 U.S.C. § 7410, requires each State to adopt and submit a plan which provides for the implementation, maintenance and enforcement of any national primary or secondary standard established pursuant to Section 109 of the Act, 42 U.S.C. § 7409. These plans are required to include enforceable emission limitations, control measures, schedules for compliance and permit programs for new sources.
2. Pursuant to Section 110 of the Act, the Administrator approved OAC Chapter 3745-31 as part of the federally enforceable Ohio SIP on October 31, 1980. This approval included OAC Rules 3745-31-01, 3745-31-02 and 3745-31-05.

3. Pursuant to Section 110 of the Act, the Administrator approved OAC Chapter 3745-35 as part of the federally enforceable Ohio SIP on July 22, 1982. This approval included OAC Rule 3745-35-02.
4. MagReTec is located at 301 Sandusky County Road 177, Bellevue, Ohio in Sandusky County which is presently an area classified as unclassifiable for Particulate Matter at 10 μm (PM_{10}), unclassifiable/attainment for CO and unclassifiable/attainment for NO_x .
5. MagReTec is a "New Source", as that term is defined at OAC Rule 3745-31-01.
6. On May 30, 1997, the Ohio Environmental Protection Agency ("OEPA") issued a PTI to MagReTec for two natural gas fired steel crucibles. The PTI included permit allowable mass emission rates and BAT determinations, and allowed MagReTec to operate for up to one year after commencing operation if the facility operates in compliance with the PTI as well as applicable laws and regulations.
7. For each natural gas fired steel crucible, the mass emission rate for PM_{10} established in the PTI issued May 30, 1997 is 0.34 lb/hr controlled emissions and 0.75 lb/hr fugitive emissions. For each natural gas fired steel crucible, the mass emission rate for HCl established in the PTI issued May 30, 1997 is 0.23 lb/hr controlled emissions and 0.17 lb/hr fugitive emissions.
8. For each natural gas fired steel crucible, the BAT determination established in the PTI issued May 30, 1997 includes compliance with the terms of the PTI, 95 percent control efficiency for PM_{10} and 85 percent or greater absorption efficiency for HCl.
9. During the weeks of November 02, 1998 and November 09, 1998, Affiliated Environmental Services conducted compliance demonstration testing on behalf of MagReTec at the MagReTec facility. Results of the compliance demonstration testing revealed that the average control efficiency of PM_{10} for the three test runs conducted was 82 percent. This actual control efficiency is less than the allowable control efficiency established as BAT in the PTI issued May 30, 1997, for the MagReTec facility and is a violation of OAC Rules 3745-31-02 and 3745-31-05(A)(3).

10. On October 20, 1998, U.S. EPA issued a Request for Information (Request), in accordance with Section 114 of the Act, to MagReTec. Among other things, the Request asked MagReTec about the present status of any application for a Permit-To-Operate ("PTO").
11. In a response to the Request mailed by MagReTec on December 14, 1998, MagReTec indicated that it had not yet submitted its PTO applications, although it had commenced operation more than 30 days earlier.
12. Failure to apply for a PTO within 30-days after commencement of operation as required in the PTI issued May 30, 1997 constitutes a violation of the PTI, and is also a violation of OAC Rule 3745-31-02 and 3745-35-02.
13. During an inspection conducted during the November, 1998 stack testing, U.S. EPA discovered that MagReTec has been operating since August 26, 1997 without a PTO.
14. Operation of an air contaminant source without a PTO is a violation of OAC Rule 3745-35-02.

2-12-99

Date



Richard C. Karl
Richard C. Karl
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shwanda Mayo, do hereby certify that a Notice of Violation was sent by Certified Mail, Return Receipt Requested, to:

Roger F. Katona, Plant Manager
Magnesium Refining Technologies, Inc.
301 Sandusky County Road 177
Bellevue, Ohio 44811

I also certify that a copy of this Notice of Violation was sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. 1049
Columbus, Ohio 43216-1049

Gerald Rich, APC Supervisor
Northwest District Office
Ohio Environmental Protection Agency
347 North Dunbridge Road
Bowling Green, Ohio 43402

Michael Cyphert, Esquire
Thompson, Hine & Flory, LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114-1216

on the 16th day of February, 1999.

Shwanda Mayo
Shwanda Mayo, Secretary
AECAS (MN-OH)

P300 759 706
CERTIFIED MAIL RECEIPT NUMBER