

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Advanced Organics, Inc.) **NOTICE OF VIOLATION**
Upper Sandusky, Ohio)
) **EPA-5-99-OH-3**
Proceeding Pursuant to the)
Clean Air Act, as amended.)
)

STATUTORY AUTHORITY

This Notice of Violation is issued pursuant to Section 113(a) of the Clean Air Act (Act), 42 U.S.C. § 7413(a). You are hereby notified that the Administrator of the United States Environmental Protection Agency (U.S. EPA), by authority duly and lawfully delegated to Stephen Rothblatt, Acting Director of Air and Radiation Division, hereby finds Advanced Organics, Inc. (AOI), in violation of the Ohio State Implementation Plan (SIP) adopted pursuant to Section 110 of the Act, 42 U.S.C. § 7410, for failure to comply with the requirements of the State of Ohio's permit to install, permit to operate, and visible particulate matter emission control.

STATUTORY AND REGULATORY BACKGROUND

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. Section 110(n)(1) of the Act, 42 U.S.C. § 7410(n)(1), provides that any provision of any applicable implementation plan that was approved or promulgated by the Administrator pursuant to Section 110 as in effect prior to November 15, 1990, shall remain in effect as part of such applicable implementation plan.
3. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, the Administrator approved Ohio Administrative Code (OAC) Chapter 3745-31 as part of the federally enforceable SIP on October 31, 1980 (45 Fed. Reg. 72119). This approval became

effective on effective on October 23, 1980. This includes OAC 3745-31-05, which establishes criteria for issuing a permit to install.

4. OAC 3745-31-05 (c) provides that the Director of the Ohio Environmental Protection Agency (OEPA) may impose special terms and conditions in the permits to install as appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality.
5. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, the Administrator approved OAC Chapter 3745-35 as part of the federally enforceable SIP on June 10, 1982 (47 Fed. Reg. 25144). The approval became effective on July 12, 1982. This includes OAC 3745-35-02, which requires a permit to operate.
6. OAC 3745-35-02 provides that no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental Protection Agency in accordance with the requirements of this rule.
7. Pursuant to Section 110 of the Act, 42 U.S.C. § 7410, the Administrator approved OAC Chapter 3745-17 as part of the federally enforceable SIP on May 27, 1994 (59 Fed. Reg. 27464). The approval became effective on June 27, 1994. This includes OAC 3745-17-07, which establishes requirements applicable to the emission of visible particulates.
8. OAC 3745-17-07 (A) (1) (a) provides that visible particulate emissions from any stack shall not exceed 20 percent opacity, as a six-minute average. OAC 3745-17-07 (A) (1) (b) provides an exemption from OAC 3745-17-07 (A) (1) (a) as a six-minute average, for not more than six consecutive minutes in any 60 minutes.

FACTUAL BACKGROUND

9. Advanced Organics Inc. (AOI), is a "facility" as that term is defined at OAC 3745-17-01(B) (3). It is located at 7148 State Route 199, Upper Sandusky, Ohio, in Wyandot County. AOI acquired the facility in May 1997 from former owner/operator, Kalmbach Feed Ingredients, Inc.
10. AOI uses the facility to recycle waste food products into ingredients used in the manufacture of animal feeds.

11. On March 26, 1997, the Director of the OEPA issued a permit to install to former owner/operator, Kalmbach Feed Ingredients, Inc. This Permit to Install was transferred to AOI during or around May 1997. Under the authority of OAC 3745-31-05(c), the Director of the OEPA included special terms and conditions in the Permit to Install with regard to the two feed ingredient dryer lines with wood burners.

FINDING OF VIOLATION

12. Under the special terms and conditions of the Permit to Install, issued pursuant to OAC 3745-31-05, the two feed ingredient dryer lines with wood burners were limited to drying bakery by-products. On September 23, 1998, U.S. EPA issued a Section 114 Request for Information to AOI. Question one in Appendix A of the request asked AOI to provide a list of all raw materials AOI accepts and dries in the two drying units at the facility. On October 21, 1998, AOI responded to the Section 114 Request for Information. AOI answered that they dried waste food products which could include process bakery by-products, potato by-products, tricalcium phosphate, corn gluten, and food processing by-products. AOI's drying of products, other than bakery by-products, as provided for in the Permit to Install, constitutes a violation of Section A of Permit to Install 03-0060 and a violation of OAC 3745-31-05(c).
13. Under the special terms and conditions of the Permit to Install, issued pursuant to OAC 3745-31-05, emission testing shall be conducted within 6 months of permit issuance for emission unit P002 and, for new products, emission testing shall be conducted prior to drying the new product. During the August 18, 1998 U.S. EPA inspection, AOI's consultant from EHS Technology Group, Mr. Bob Basl, stated that the last stack test at the facility had been performed on November 22, 1996 for use in setting the emission limits in the March 26, 1997 Permit to Install. No compliance stack test has been performed since the Permit to Install was issued on March 26, 1997. AOI's failure to conduct a stack test at the facility in accordance with the time-frame set forth in the permit, constitutes a violation of Section A of Permit to Install 03-0060 and a violation of OAC 3745-31-05(c).
14. Under the special terms and conditions of the Permit to Install, issued pursuant to OAC 3745-31-05, the permittee shall maintain a permanent log recording, on an hourly basis, the type and quantity of raw material fed to the

dryer and a summary of the total hours of operation for each day. On September 23, 1998, U.S. EPA issued a Section 114 Request for Information to AOI. Question five in Appendix A asked AOI to provide a copy of the permanent log recording, on an hourly basis, the type and quantity of raw material fed to the dryer and a summary of the total hours of operation for each day. On October 21, 1998, AOI responded to the Section 114 Request for Information. Although AOI provided the Agency with some logs, it indicated that the logs from May through December of 1997 were not available due to administrative reorganization which occurred at the facility around the first of the year. In addition, AOI indicated that it did not provide the data regarding the specific type of raw material processed because it is always a mix of waste food products. AOI's failure to provide the logs for the time period from May through December 1997, and failure to keep and provide the data regarding the specific raw materials processed, constitutes a violation of Section A of Permit to Install 03-0060 and a violation of OAC 3745-31-05(c).

15. Under the special terms and conditions of the Permit to Install, issued pursuant to OAC 3745-31-05, the visible emissions from either feed ingredient dryer stack shall not exceed ten (10) percent opacity as a six-minute average. In addition, OAC 3745-17-07 provides that visible particulate emissions from any stack shall not exceed twenty (20) percent opacity as a six-minute average. On August 18, 1998 at 11:52 a.m., an inspector from U.S. EPA performed visual emission readings. Readings were taken of the emissions exiting the roof vents for a time period of 18 minutes. Readings demonstrated opacity levels in excess of the limits set forth in the Permit to Install, as well as the limits in the State rules. This constitutes a violation of Section A of Permit to Install 03-0060 and a violation of OAC 3745-31-05(c) and 3745-17-07(A)(1)(a) and (b).
16. Under the special terms and conditions of the Permit to Install, issued pursuant to OAC 3745-31-05, the visible emissions from either feed ingredient dryer stack shall not exceed ten (10) percent opacity as a six-minute average. In addition, OAC 3745-17-07 provides that visible particulate emissions from any stack shall not exceed twenty (20) percent opacity as a six-minute average. On September 1, 1998 at 6:07 p.m., an inspector from U.S. EPA performed visual emission readings. Readings were taken of the emissions exiting the stack on west side of plant for a time period of 60 minutes. Readings demonstrated opacity levels

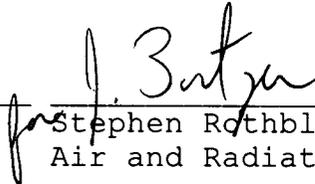
in excess of the limits set forth in the Permit to Install, as well as the limits in the State rules. This constitutes a violation of Section A of Permit to Install 03-0060 and a violation of OAC 3745-31-05(c) and 3745-17-07(A)(1)(a) and (b).

17. During the August 18, 1998 U.S. EPA inspection, AOI could not produce a Permit to Operate. On September 23, 1998, U.S. EPA issued a Section 114 Request for Information to AOI. Question two in Appendix A asked AOI to provide a copy of AOI's approved Permit to Operate or application for such permit. On October 21, 1998, AOI responded to the Section 114 Request for Information. AOI answered that they have not submitted an application for a Permit to Operate. AOI's failure to secure a Permit to Operate or apply for a Permit to Operate, constitutes a violation of OAC 3745-35-02.

NOTICE OF VIOLATION

The Administrator of the U.S. EPA, by authority duly delegated to the undersigned, hereby notifies Advanced Organics, Inc., and the State of Ohio that Advanced Organics, Inc., is in violation of the Ohio State Implementation Plan as set forth in this Notice of Violation.

Date: December 29, 1998



Stephen Rothblatt, Acting Director
Air and Radiation Division