United States Environmental Protection Agency
Region 5

IN THE MATTER OF:	)	
	)	
Buckeye Egg Farms, L.P. 11212 Croton Road P.O. Box 173 Croton, OH 43013-0173	))))	**NOTICE OF VIOLATION AND FINDING OF VIOLATION** **EPA-5-01-OH-09**
	))	
Proceedings Pursuant to the Clean Air Act, 42 U.S.C. §§ 7401 et seq.	)))	

NOTICE AND FINDING OF VIOLATION

The United States Environmental Protection Agency finds that Buckeye Egg Farms, L.P. (Buckeye), is violating Prevention of Significant Deterioration requirements at Subchapter I, Part C of the Clean Air Act, 42 U.S.C. §§ 7470-7479 and 42 U.S.C. §§ 7491-7492, at the Croton facility, 11212 Croton Road, Croton, Licking County, Ohio 43013, and is violating Section 502 and 503 of the Clean Air Act (42 U.S.C. § 7661-7661f), at the Marseilles facility, 11873 County Road 77, Harpster, Wyandot County, Ohio 43323, and the Croton facility.

Specifically, Buckeye and/or its predecessor(s)

1. Constructed and/or modified, and continues to operate a major stationary source without the appropriate prevention of significant deterioration (PSD) permit at the Croton facility,

2. Failed to go through PSD review at the Croton facility,

3. Failed to employ best available control technology (BACT) at the Croton facility,

4. Failed to apply for Title V permits at the Croton and Marseilles facilities, and

5. Is operating major sources without Title V permits at the Croton and Marseilles facilities.

Statutory and Regulatory Authority

6. The Prevention of Significant Deterioration (PSD) regulations apply to "... any major stationary source and any major modification with respect to each pollutant subject to regulation under the Act that it would emit" [40 C.F.R. § 52.21(i)(2)].

7. "Major stationary source", in general, is defined at 40 C.F.R. § 52.21(b)(1)(i) as:
   A. Any of the stationary sources listed at 40 C.F.R. § 52.21(b)(1)(i)(a) which emits or has the potential to emit 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act (Act).
   B. Any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Act.
   C. Any physical change(s) that would occur at a stationary source if the change(s) would constitute a major stationary source by itself.

8. "Major modification" is defined at 40 C.F.R. § 52.21(b)(2)(i) 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.

9. "Significant", in general, is defined at 40 C.F.R. § 52.21(b)(23) as:
   A. Emissions of the listed pollutants at a rate of emissions that would equal or exceed the associated, listed emission rate:

      * * *

      ii. Particulate Matter: 25 TPY
      iii. PM_{10}: 15 TPY

      * * *

   B. Emissions of any other pollutant regulated under the Act not listed at 40 C.F.R. § 52.21(b)(23)(i), at any emissions rate.

10. "Net Emissions Increase", in general, is defined at 40 C.F.R. § 52.21(b)(2)(i) as:
   A. Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source whose sum exceeds zero.

   B. Any other increases or decreases in actual emissions at the subject source which occur at the same time as a

particular change and are otherwise creditable whose sum exceeds zero.

11. Under Part C of the Act, the Ohio SIP requires that no construction or operation of a major stationary source or a modification of a major stationary source shall occur in an area designated as attainment without first obtaining a permit under 40 C.F.R. § 52.21 as incorporated into the Ohio SIP at 40 C.F.R. § 52.1884.

12. 40 C.F.R. § 52.21(j)(2) through (3) and Section 165(a)(4) of the Act require a major stationary source or major modification to apply best available control technology (BACT) for each pollutant regulated under the Act for which it would have the potential to emit in significant amounts [(j)(2)] or would result in a significant net emissions increase at the source [(j)(3)].

13. Section 161 of the Act, 42 U.S.C. § 7471, and 40 C.F.R. § 51.166(a)(1) require the States to submit SIPs containing emission limitations and other measures necessary to prevent the significant deterioration of air quality.

14. Pursuant to Section 110(a) of the Act, 42 U.S.C. § 7410(a), the Administrator determined the Ohio SIP did not satisfy the measures required to ensure the prevention of significant deterioration of air quality. As a result, the Administrator disapproved the PSD portion of the Ohio SIP, 40 C.F.R. § 52.1884(a).

15. In accordance with Section 110(c) of the Act, 42 U.S.C. § 7410(c) and 40 C.F.R. § 52.21(a), the Administrator incorporated the provisions of 40 C.F.R. § 52.21(b) through (w) (PSD Regulations) as part of the Ohio SIP, 40 C.F.R. § 52.1884(b).

16. Section 502 of the Act, 42 U.S.C. § 7661(a), states that it is unlawful for any person to operate an affected source, a major source, or any other source, except in compliance with a permit issued by a permitting authority under Title V after the effective date of any permit program approved or promulgated under Title V of the Act, 42 U.S.C. §§ 7661 - 7661(f).

17. Section 503(a) of the Act, states that any source specified in section 502 shall become subject to a permit program, and required to have a permit. In addition, Section 503(c) states that any person required to have a permit shall, ...,

submit to the permitting authority a compliance plan and an application for a permit.

18. U.S. EPA published the final approval of the State of Ohio's operating permits program in the Federal Register (60 FR 42045) on August 15, 1995. The final approval became effective October 1, 1995. 40 C.F.R. Part 70, Appendix A.

Buckeye's Operations

19. Buckeye owns and operates poultry egg laying, pullet and/or breeder facilities in at least two counties in Ohio which are the subject of this Notice of Violation and Finding of Violation: the Croton facility at 11212 Croton Road, Croton, Ohio 43013, in Licking County; and the Marseilles facility located at 11873 County Road 77, Harpster, Ohio 43323, in Wyandot County.

Croton, 1212 Croton Road, Croton, Licking County, Ohio

20. At all times since 1980, Buckeye's Croton facility was located in an area that had been classified as attainment or unclassifiable for TSP and/or PM-10.

21. Buckeye's Croton facility is a major source subject to the requirements of the Ohio SIP, 40 C.F.R. § 52.21. These requirements are applicable because the pollutant-emitting activities from Buckeye's Croton facility has the potential to emit 250 tons per year (TPY) or more of particulate matter (PM).

22. Buckeye's Croton facility is subject to Title V of the Act (Sections 502 and 503) because it is a major source (as defined at Section 501(2) of the Act) with the potential to emit more than 100 tons per year of PM.

23. In 1980, the State of Ohio issued a permit to install (PTI) to Buckeye's predecessor to construct the Croton facility. On at least three occasions between 1982 and 1986, the Croton facility expanded by making three major modifications, each of which resulted in a significant net emissions increase of 25 TPY or more of PM. For the 1980 construction of a major source with the potential to emit 250 TPY or more of PM, and for each of the three major modifications that occurred at the Croton facility between 1982 and 1986, Buckeye and/or its predecessor(s) failed to obtain a PSD permit and failed to employ BACT at the Croton facility.

Marseilles, 11873 County Road 77, Harpster, Wyantdot County, Ohio

24. At all times since 1996, Buckeye's Marseilles facility was located in an area that had been classified as unclassifiable for PM-10.

25. Buckeye's Marseilles facility is subject to Title V of the Act (Sections 502 and 503) because it is a major source (as defined at Section 501(2) of the Act) with the potential to emit more than 100 TPY or more of PM.

Finding of Violation

26. Buckeye and/or its predecessor(s) began construction of the Croton facility, which is a major source with the potential to emit 250 TPY or more of PM, without PSD permits, violating 40 C.F.R. § 52.21(i)(1).

27. Buckeye and/or its predecessor(s) failed to apply BACT for PM at the Croton facility, violating 40 C.F.R. § 52.21(j)(2).

28. Each of these violations exists from the date of start of construction and continues until the appropriate PSD permit is obtained and the necessary pollution control equipment is installed and operated.

29. Buckeye and/or its predecessor(s) made major modifications that resulted in emissions of 25 TPY or more of PM to the Croton facility without a PSD permit, violating 40 C.F.R. § 52.21(i)(2).

30. As part of its major modifications of the Croton facility, Buckeye and/or its predecessor(s) failed to apply BACT for PM, violating 40 C.F.R. § 52.21(j)(3).

31. Each of these violations exists from the date of start of each major modification and continues until the appropriate PSD permit is obtained and the necessary pollution control equipment is installed and operated.

32. Buckeye and/or its predecessor(s) failed to apply for or obtain a Title V operating permit for the Croton facility and Marseilles facility, violating Section 503 of the Act.

33. These violations exist from October 1, 1996, and continue until the appropriate Title V permits are obtained.

34. Buckeye and/or its predecessor(s) failed to apply for and obtain PSD permits, and undergo PSD review, including applying BACT, for constructing a major source with the potential to emit 250 TPY or more of PM at its Croton facility, and for making major modifications at its Croton facility, violating the Ohio SIP requirement, 40 C.F.R. § 52.21.

35. Each of Buckeye's violations at its Croton facility and Marseilles facility exists from the date of the construction and/or modification until the time that Buckeye obtains the appropriate PSD and/or Title V permits and installs and operates the necessary pollution control equipment to satisfy the Ohio SIP requirements.

1/19/01
Date

ALTING
Bharat Mathur, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-01-OH-09, by Certified Mail, Return Receipt Requested, to:

Bill Glass, Chief Operating Officer
Buckeye Egg Farms, L.P.
11212 Croton Road
P.O. Box 173
Croton, Ohio 43013-0173

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

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

Isaac Robinson, APC Supervisor
Central District Office
3232 Alum Creek Drive
Columbus, Ohio 43207-3417

Don Waltermeyer, APC
Northwest District Office
347 Dunbridge Road
Bowling Green, Ohio 43402

on the 19th day of January, 2001.

Loretta Shaffer, Secretary
AECAS, (OH/MN)
(312) 353-5723

CERTIFIED MAIL RECEIPT NUMBER: 7099 3400 0009 5923 3949