



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 19 2005

REPLY TO THE ATTENTION OF
(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Rick Pucak, General Manager
Akron Thermal, L.P.
226 Opportunity Parkway
Akron, Ohio 44307

Re: Notice of Violation and Finding of Violation
Akron Thermal, L.P.
Akron, Ohio

Dear Mr. Pucak:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV) and Finding of Violation (FOV) to Akron Thermal, L.P. (Akron Thermal) under Section 113(a)(1) and (a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (a)(3). We find that you are violating Sections 502 and 503 of the Clean Air Act, 42 U.S.C. §§ 7661a-7661b and the Ohio State Implementation Plan at your Akron, Ohio facility.

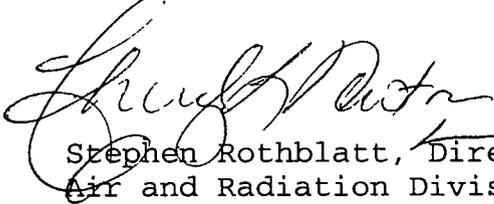
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV/FOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference if you choose.

The contacts in this matter are Nathan A. Frank P.E., Environmental Engineer, and Catherine Garypie, Associate Regional Counsel. You may call them at (312) 886-3850 and (312) 886-5825 respectively to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Stephen Rothblatt".

Stephen Rothblatt, Director
Air and Radiation Division

cc: Robert Hodanbosi, Chief
Ohio Environmental Protection Agency

Lynn Malcolm, Administrator
Akron Regional Air Quality Management District

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)
)
Akron Thermal, L.P.) **NOTICE AND FINDING OF**
Akron, Ohio) **VIOLATION**
)
) EPA-5-05-OH-19
Proceedings Pursuant to)
Section 113(a)(1) and (a)(3))
of the Clean Air Act, 42)
U.S.C. § 7413(a)(1) and)
(a)(3))
_____)

NOTICE AND FINDING OF VIOLATION

The Administrator of the United States Environmental Protection Agency (U.S. EPA) is issuing this Notice of Violation and Finding of Violation under Section 113(a)(1) and (a)(3) of the Clean Air Act (CAA or the Act), 42 U.S.C. § 7413(a)(1) and (a)(3). U.S. EPA finds that Akron Thermal, L.P. (Akron Thermal) is violating the Ohio State Implementation Plan (SIP) and Sections 502 and 503 of the CAA, 42 U.S.C. § 7661a-7661b as follows:

Statutory and Regulatory Background

Requirements for SIP Permits to Install

1. Section 110 of the Act, 42 U.S.C. § 7410, requires each state to adopt and submit to U.S. EPA for approval a State Implementation Plan (SIP) that provides for the maintenance, implementation and enforcement of the NAAQS. Under Section 110(a)(2) of the Act, 42 U.S.C. § 7410(a)(2), each SIP must include a permit program to regulate the modification and construction of any stationary source of air pollution as necessary to assure that NAAQS are achieved. Pursuant to Section 113(a) and (b) of the Act, 42 U.S.C. § 7413(a) and (b), upon EPA approval, SIP requirements are federally enforceable under Section 113. 40 C.F.R. § 52.23.
2. Part C of Title I of the Act requires that each applicable SIP contain emission limitations and such other measures as may be necessary to prevent significant deterioration (PSD) of air quality in each region designated as attainment or unclassifiable. 40 C.F.R. 51.165 and 51.166 contain the requirements for a PSD permitting program.

3. U.S. EPA originally approved the Ohio Environmental Protection Agency's (Ohio EPA) permit to install (PTI) rules, OAC 3745-31, as part of the federally enforceable Ohio SIP on October 31, 1980 (45 Fed. Reg. 72119). Since then, U.S. EPA has approved several revisions to OAC 3745-31 into the federally enforceable SIP.
4. The most recent revisions to OAC 3745-31 include Ohio EPA's rules for the PSD permitting program in its approved SIP. The PSD portion of Ohio's SIP consists of OAC sections 3745-31-11 to 3745-31-20. The PSD portion of Ohio's SIP also includes general provisions applying to both attainment and nonattainment areas in the form of OAC sections 3745-31-01 to 3745-31-10. Ohio EPA's PSD program was approved as part of the SIP January 22, 2003 (68 Fed. Reg. 2909).
5. OAC Rule 3745-31-02(A) states that no person shall cause, permit, or allow the installation of a new source of air pollutants or allow the modification of an air containment source without first obtaining a PTI from the director of the Ohio Environmental Protection Agency (Ohio EPA).
6. OAC 3745-31-05(A)(3) states that the director of the Ohio EPA will issue a PTI only if he determines that the installation or modification and operation of the air contaminant source will employ best available technology (BAT).
7. OAC 3745-31-15(D) states that the owner or operator of a new major modification shall apply best available control technology (BACT) for each regulated air pollutant that would be a significant net emissions increase at the stationary source.
8. OAC 3745-31-16(B) states that any owner or operator of a proposed major stationary source or major modification shall demonstrate that allowable emissions increases from the proposed major stationary source or major modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of: (1) Any national ambient air quality standard; or (2) Any applicable maximum allowable increase over the baseline concentration (allowable increment) in any attainment area.

Requirements for Title V Operating Permits

10. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.
11. Section 113(a)(3) of the Act, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Title V of the CAA, or any rule promulgated, issued or approved under Title V of the CAA.
12. U.S. EPA fully approved the Ohio Title V program, effective October 1, 1995. 60 Fed. Reg. 42045 (August 15, 1995). Ohio's Title V permit requirements are codified at OAC 3745-77.

Akron Thermal's Facility

13. Akron Thermal operates a district steam heating plant at 226 Opportunity Parkway, Akron, Ohio. The City of Akron owns the plant and leases it to Akron Thermal. This plant consists of the Akron Recycle Energy Systems (RES) Facility and the former B.F. Goodrich powerhouse, also known as the Annex Facility, which is located directly across the Ohio and Erie Canal from the RES Facility.
14. Akron Thermal operates five boilers with a combined heat input of 1027 million Btu/hr at the district steam heating plant.
15. Included among these five boilers are Unit #1 and Unit #2 (Ohio EPA I.D. nos. B003 and B004 respectively). Each of these boilers have a maximum rated heat input of 180 million Btu per hour and are each equipped with a four field electrostatic precipitator. Both of these boilers are authorized to burn natural gas and a combination of wood waste and tire derived fuel (TDF). Both of these boilers are located at the RES Facility.
16. PTI no. 16-02294 (the PTI) was issued by Ohio EPA on December 16, 2003 to Akron Thermal authorizing the burning

of up to 15.5% TDF with waste wood in Unit #1 and Unit #2.¹ This PTI established identical limits for SO₂, PM, sulfuric acid mist (H₂SO₄), and HCl for each boiler. These limits, along with their regulatory authority are provided in Table 1.

Table 1

Pollutant	Emission Limit	Regulatory Authority (OAC Rule)
PM	0.08 lb/mmBtu	3745-31-05 (A) (3)
HCl	0.86 lbs/hr	3745-31-05 (A) (3)
SO ₂	0.24 ² lb/mmBtu	3745-31-05 (A) (3) and 3745-31-16 (B)
H ₂ SO ₄	0.053 lb/mmBtu	3745-31-05 (A) (3) and 3745-31-16 (B)

17. The conversion from burning solely waste wood to burning a mixture of wood waste and TDF was determined to be a major modification for SO₂ and H₂SO₄ pursuant to PSD rules and triggered the requirements of OAC 3745-31-11 through 3745-31-20. Included among these is the requirement to apply BACT and to conduct an air quality modeling analysis.
18. Pursuant to the PTI, Ohio EPA has determined BACT for SO₂ and H₂SO₄ to be restrictions on the quantity of TDF burned in the boilers. For Phase I, this restriction was set by Ohio EPA at 15.5% TDF with waste wood.
19. The emission limitations for SO₂ and H₂SO₄ identified in Table 1 were established by Ohio EPA pursuant to OAC 3745-

¹To ensure compliance with the allowable increments in OAC 3745-31-11, Unit #1 and Unit #2 are authorized to burn up to 15.5% TDF with waste wood under Phase I of the PTI and increase to 20% TDF with waste wood under Phase II. Pursuant to the PTI, Phase II does not commence until Akron Thermal receives written approval from Ohio EPA. To date, Akron Thermal has not received this approval. As a result, this notice will only address Phase I of the PTI.

²This limit increases to 0.31 lbs/mmBtu under Phase II of the PTI.

31-16(B) to ensure that this major modification does not cause an increase in emissions that would cause a violation of the allowable increments provided in OAC 3745-31-11.

20. The emission limitations for SO₂, H₂SO₄, PM and HCl identified in Table 1 were established by Ohio EPA as BAT pursuant to OAC 3745-31-05(A) (3).
21. Pursuant to Part III Term A.V.1 of the PTI, Akron Thermal was required to conduct EPA standard reference method emissions testing of PM, SO₂, HCl, and H₂SO₄ within 3 months after start-up. These emission tests are required to be conducted at the maximum TDF feed rate.
22. Akron Thermal's Title V operating permit (the Title V permit) was renewed January 30, 2004. Upon renewal, all requirements of the PTI were incorporated the Title V permit. This includes the emission limits identified in Table 1.
23. Akron Thermal commenced the combustion of TDF with wood waste in Units #1 and #2 on January 30, 2005.
24. In accordance with the PTI, Akron Thermal conducted an emissions test using EPA standard reference methods on Unit #1 and Unit #2 on October 12 and 13, 2004 respectively. The results of this test are shown in Table 2.

Table 2

Requirement	Limit	Unit #1	Unit #2
TDF Feed	15.5%	10.2%	9.8%
PM Emissions	0.08 lb/mmBtu	0.04 lb/mmBtu	0.09 lb/mmBtu
SO ₂ Emissions	0.24 lb/mmBtu	0.24 lb/mmBtu	0.33 lb/mmBtu
H ₂ SO ₄ Emissions	0.053 lb/mmBtu	0.073 lb/mmBtu	0.042 lb/mmBtu
HCl Emissions	0.86 lbs/hr	1.5 lb/hr	0.66 lb/hr

Failed requirements and limits are in **Bold**

25. The emissions test conducted October 12, 2004 showed Unit #1 to be emitting in excess of the emission limits for HCl and H₂SO₄ contained in the PTI and the Title V permit. Additionally, Unit #1 was not tested at the maximum TDF feed rate of 15.5%.
26. The emissions test conducted October 13, 2004 showed Unit #2 emitting in excess of the emission limits for PM and SO₂ contained in the PTI and the Title V permit. Additionally, Unit #2 was not tested at the maximum TDF feed rate of 15.5%.
27. On February 23 and 24, 2005, Akron Thermal conducted a retest on Unit #1 and Unit #2 respectively using EPA standard reference methods. The results of this test are shown in Table 3.

Table 3

Requirement	Limit	Unit #1	Unit #2
TDF Feed	15.5%	11.0%	11.1%
PM Emissions	0.08 lb/mmBtu	---	0.04 lb/mmBtu
SO ₂ Emissions	0.24 lb/mmBtu	---	0.28 lb/mmBtu
H ₂ SO ₄ Emissions	0.053 lb/mmBtu	0.029 lb/mmBtu	0.010 lb/mmBtu
HCl Emissions	0.86 lb/hr	1.77 lbs/hr	3.90 lb/hr

Failed limits and requirements are in **Bold**

28. The emissions test conducted February 23 and 24, 2005 showed Unit #1 to be emitting in excess of the emission limits for HCl contained in the PTI and the Title V permit. Additionally, Unit #1 was not tested at the maximum TDF feed rate of 15.5%.
29. The emissions test conducted February 23 and 24, 2005 showed Unit #2 emitting in excess of the emission limits for SO₂ and HCl contained in the PTI and the Title V permit. Additionally, Unit #2 was not tested at the maximum TDF feed rate of 15.5%.

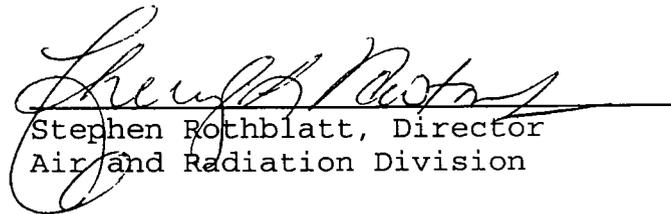
Violations

30. During the EPA standard reference method emissions test conducted on October 12, 2004 and again on February 23, 2005, Unit #1 at Akron Thermal's steam plant was shown to be in violation of the HCl emission limit in Part III, Term A.I.1 of the PTI and the Title V permit.
31. The violation noted in Paragraph 30 exists from the date Akron Thermal commenced the combustion of TDF with wood waste in Unit #1, and will continue until Akron Thermal establishes that Unit #1 is in continuous compliance with the HCl emission limit contained in the PTI and the Title V permit.
32. During the EPA standard reference method emissions test conducted on October 12, 2004, Unit #1 at Akron Thermal's steam plant was shown to be in violation of the H₂SO₂ emission limit in Part III, Term A.I.1 of the PTI and the Title V permit.
33. During the EPA standard reference method emissions test conducted on October 13, 2004 and again on February 24, 2005, Unit #2 at Akron Thermal's steam plant was shown to be in violation of the SO₂ emission limit in Part III, Term A.I.1 of the PTI and the Title V permit.
34. The violation noted in Paragraph 33 exists from the date Akron Thermal commenced the combustion of TDF with wood waste in Unit #2, and will continue until Akron Thermal establishes that Unit #2 is in continuous compliance with the SO₂ emission limit contained in the PTI and the Title V permit.
35. During the EPA standard reference method emissions test conducted on October 13, 2004, Unit #2 at Akron Thermal's steam plant was shown to be in violation of the PM emission limit in Part III, Term A.I.1 of the PTI and the Title V permit.
36. During the EPA standard reference method emissions test conducted on February 24, 2005, Unit #2 at Akron Thermal's steam plant was shown to be in violation of the HCl emission limit in Part III, Term A.I.1 of the PTI and the Title V permit.
37. The violation noted in Paragraph 36 exists from February 24,

2005, and will continue until Akron Thermal establishes that Unit #2 is in continuous compliance with the HCL emission limit contained in the PTI and the Title V permit.

38. As of the date of this notice, Akron Thermal has not conducted an emissions test of PM, SO₂, HCl, and H₂SO₄ at the maximum TDF feed rate of 15.5% in violation of Part III Term A.V.1 of the PTI. This violation exists from 3 months after the date Akron Thermal began combustion of TDF with wood waste in Unit #1 and Unit #2, and will continue until Akron Thermal conducts an emission test at a TDF feed rate of 15.5%.
39. Akron Thermal's operation in violation of its Title V permit constitutes a violation of section 502 of the CAA and of 40 C.F.R. § 70.7(b).

8/19/05
Date


Stephen Rothblatt, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice of Violation/Finding of Violation, No. EPA-5-05-OH-19, by Certified Mail, Return Receipt Requested, to:

Rick Pucak, General Manager
Akron Thermal, L.P.
226 Opportunity Parkway
Akron, Ohio 44307

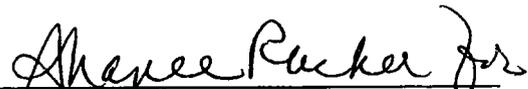
I also certify that I sent copies of the Notice of Violation/Finding of Violation by first class mail to:

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

and

Lynn Malcolm, Administrator
Akron Regional Air Quality Management District
146 South High St. Room 904
Akron, Ohio 44308

on the 19th day of August, 2005.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 14479697