



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

JUN 23 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Cliff Brannon
General Manager
POET Biorefining – Marion
1660 Hillman-Ford Road
Marion, Ohio 43302

Re: Administrative Consent Order, EPA-5-15-113(a)-OH-07

Dear Mr. Thomas,

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at (312) 886-3850.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sarah Marshall".

Sarah Marshall
Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure:

cc: Mark Budge, Ohio Environmental Protection Agency
Robert Hodanbosi, Ohio Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-15-113(a)-OH-07
)	
Marion Ethanol, LLC d/b/a)	Proceeding Under Section 113(a)(3)
POET Biorefining - Marion)	of the Clean Air Act, 42 U.S.C.
Marion, Ohio)	§ 7413(a)
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Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this Order to Marion Ethanol, LLC, doing business as POET Biorefining - Marion (POET), under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a).

Statutory and Regulatory Background

Federally Enforceable State Operating Permit Program

2. On March 10, 2003, EPA approved Ohio Administrative Code (OAC) Rule 3745-31-05 as part of the federally-enforceable Ohio State Implementation Plan (Ohio SIP). 68 Fed. Reg. 29009.

3. OAC Rule 3734-31-05 authorizes the Ohio Environmental Protection Agency (Ohio EPA) to issue federally-enforceable Permits-to-Install (PTI) and Permits-to-Install and Operate (PTIO) with such terms and conditions as are necessary to ensure compliance with applicable laws and to ensure adequate protection of environmental quality.

PTI and PTIO Requirements

4. Ohio EPA issued a PTI, Application No. 03-17303, to POET for its Marion, Ohio facility (the Facility) on September 7, 2007, with an effective date of September 7, 2007 (2007 PTI).

5. Emission Unit P007 (P007) Condition A.2.a.i. of the 2007 PTI requires the operation of a wet scrubber with a minimum control efficiency of 95% for volatile organic compounds (VOCs) at P007.
6. Ohio EPA issued a PTIO, No. P0105638, to the Facility on October 26, 2010, with an effective date of October 26, 2010 (2010 PTIO).
7. Condition 2.b)(2)a.i. of the 2010 PTIO requires the operation of a wet scrubber with a minimum control efficiency of 95% for VOCs at P007.
8. Ohio EPA issued a PTIO, No. P0107754, to the Facility on June 29, 2011, with an effective date of June 29, 2011 (2011 PTIO).
9. Condition 3.c)(1)a. of the 2011 PTIO requires the operation of a wet scrubber with a minimum control efficiency of 95% for VOCs at P007.
10. Ohio EPA issued a PTIO, No. P0109343, to the Facility on June 19, 2012, with an effective date of June 19, 2012 (2012 PTIO).
11. Condition 1.b)(1)a. of the 2012 PTIO states that VOC emissions from P007 during downtime of the scrubber shall not exceed 600.00 lbs/hr.

Title V Permit Program

12. Title V of the Act, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution.
13. In accordance with Section 502(b) of the Act, 42 U.S.C. § 7661a(b), the EPA promulgated regulations establishing the minimum elements of a Title V permit program for any air pollution control agency to administer. See 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

14. Section 502(d) of the Act, 42 U.S.C. § 7661a(d), provides that each state must submit to the EPA a permit program meeting the requirements of Title V.

15. On August 15, 1995, EPA approved the State of Ohio Title V operating permit program with an effective date of October 1, 1995. 60 Fed. Reg. 42045.

16. 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 Act, no source subject to Title V may operate except in compliance with a Title V permit.

17. 40 C.F.R. § 70.6(b)(1) provides that EPA may enforce all terms and conditions in a Title V permit.

Title V Permit Requirements

18. Ohio EPA issued a Title V Permit, No. P0110387, to the Facility on December 18, 2012, with an effective date of January 8, 2013 (Title V Permit).

19. Condition 4.b)(1)a. of the Title V Permit states that VOC emissions from P007 during downtime of the scrubber shall not exceed 600.00 lbs/hr.

20. Condition 4.b)(1)a. of the Title V Permit states that VOC emissions from P007 during downtime of the scrubber shall not exceed 12.0 tons per year.

Findings

21. POET owns and operates an ethanol production plant located at 1660 Hillman-Ford Road, Marion, Ohio (the Facility).

22. The Facility describes P007 as "ethanol production operations," including a slurry tank, five fermenters, a yeast prop tank, a beer well, a beer stripper, a rectifier column, a side stripper, molecular sieves, and evaporators.

23. Emissions from P007 are controlled by a scrubber and a regenerative thermal oxidizer (RTO) in series.

24. Periods of downtime at the scrubber result in emissions from P007 being vented to the atmosphere. As a result, the VOC loading rate at the scrubber is the VOC emission rate from P007 during periods of scrubber downtime.

25. In December 2011, POET conducted a performance test at the inlet of the scrubber. This test identified a VOC loading rate to the scrubber of 451 pounds VOC (as propane) per hour using Methods 1-3, a Method 4 equivalent method, and Method 25A.

26. Compliance with total VOC emission limits requires conversion of VOC "as propane" emission data through use of the conversion factors of 1.22 pounds of propane per pound of carbon and 1.92 pounds of VOC (assumed to be ethanol) per pound of carbon.

27. Applying the conversion factors from paragraph 26, above, to the VOC loading rate to the scrubber results in an actual VOC loading rate of 710 pounds of total VOCs per hr.

28. Based on the VOC loading rate to the scrubber (the emission rate during scrubber downtime) and the number of hours of scrubber downtime in 2013, the Facility emitted 13.5 tons of VOC in 2013.

29. On December 3, 2014, EPA issued the Respondent a Notice of Violation and Finding of Violation (NOV/FOV) alleging that it violated provisions of its PTI, PTIOs, and Title V Permit by operating P007 during scrubber downtime, by exceeding hourly emissions limits during scrubber downtime, and by exceeding the annual VOC emission limits for scrubber bypass events.

30. On January 9, 2015, representatives of the Respondent and EPA discussed the December 3, 2014, NOV/FOV.

Compliance Program

31. By one year after the effective date of this Order, POET must achieve, demonstrate, and maintain compliance with its current operating permit at its Marion, Ohio facility.

32. On or before May 15, 2015, POET must apply for a permit modification from the Ohio EPA requesting that when the scrubber controlling emissions from P007 is bypassed or is not operational for any reason, all emissions from P007 are routed directly to the RTO.

33. Within 60 days after the approval of the modification by Ohio EPA, POET must modify the existing ductwork at P007 such that, when the scrubber controlling emissions from P007 is bypassed or is not operational for any reason, all emissions from P007 are routed directly to the RTO.

34. Within 30 calendar days following completion of the modification described in Paragraph 33 above, POET must send a notification to EPA containing any plans, contracts, work orders or receipts for the work, evidence of the work completed (such as photographs or other documentation), and a narrative description of the modification.

35. Within 65 calendar days after the completion of the modification described in Paragraph 33 above, POET must test the emissions from the RTO under conditions when the scrubber is not operating. Testing at the RTO shall determine both the VOC emission rate and the VOC destruction efficiency by sampling at the inlet and outlet while operating at maximum capacity and under representative conditions using either Method 18 or Method 320, and Method 25 or 25A. Within 30 days of completing the testing, POET must send EPA a complete copy of the testing results. This submittal may be made electronically.

36. POET must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
77 W. Jackson Boulevard
Chicago, Illinois 60604

General Provisions

37. This Order does not affect POET's responsibility to comply with other federal, state and local laws.

38. This Order does not restrict EPA's authority to enforce the Ohio SIP, the facility's Title V Permit, or any other section of the CAA.

39. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the CAA, 42 U.S.C. § 7413, for POET's violation of any Facility PTL, PTIO, or Title V Permit.

40. Failure to comply with this Order may subject POET to penalties of up to \$37,500 per day for each violation under Section 113 of the CAA, 42 U.S.C. § 7413, and 40 C.F.R. Part 19.

41. This Order is binding on POET, its assignees and successors. POET must give notice of this Order to any successors in interest prior to transferring ownership and must simultaneously verify to EPA, at the above address, that it has given the notice.

42. POET may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information submitted to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If POET fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the CAA, 42 U.S.C. § 7414, is not

entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

43. EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

44. POET agrees to this Order.

45. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that POET has complied with all terms of the Order throughout its duration.

6-5-15
Date

Cliff Brannon
Cliff Brannon
General Manager
POET Biorefining - Marion

6/24/15
Date

George T. Czarniak
George T. Czarniak
Director
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-15-113(a)-OH-07 by certified mail, return receipt requested, to:

Cliff Brannon
General Manager
POET Biorefining - Marion
1660 Hillman-Ford Road
Marion, Ohio 43302

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-15-113(a)-OH-07, by first-class mail to:

Mark Budge
Ohio EPA/DAPC
Northwest District Office
347 N Dunbridge Rd
Bowling Green, OH 43402

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

On the 24 day of June 2015.



Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7011150 0000 2640 5151