



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

JUN 02 2015

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Arthur Thomas
General Manager
POET Biorefining - Fostoria
2111 Sandusky Street
Fostoria, Ohio 44830

Re: Administrative Consent Order, EPA-5-15-113(a)-OH-03

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 black ink, appearing to read "Nathan Frank".

Nathan Frank
Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

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-03
)	
Fostoria Ethanol, LLC, d/b/a)	Proceeding Under Section 113(a)(3)
POET Biorefining - Fostoria)	of the Clean Air Act, 42 U.S.C.
Fostoria, Ohio)	§ 7413(a)
)	
_____)	

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 Fostoria Ethanol, LLC, doing business as POET Biorefining - Fostoria (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.

Title V Permit Program

4. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, established an operating permit program for major sources of air pollution.

5. In accordance with Section 502(b) of the CAA, 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.

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

7. 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.

8. Section 502(a) of the CAA, 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.

9. 40 C.F.R. § 70.6(b)(1) provides that EPA may enforce all terms and conditions in a Title V permit.

POET PTI and PTIO Requirements

10. Ohio EPA issued a PTI, Application No. 03-17304, to the Facility on September 18, 2007, with an effective date of September 18, 2007 (2007 PTI).

11. 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.

12. Ohio EPA issued a PTIO, No. P0105649, to the Facility on September 20, 2010, with an effective date of September 20, 2010 (2010 PTIO).

13. 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.

14. Ohio EPA issued a PTIO, No. P010758, to the Facility on June 29, 2011, with an effective date of June 29, 2011 (2011 PTIO).

15. 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.

16. Ohio EPA issued a PTIO, No. P0109395, to the Facility on June 19, 2012, with an effective date of June 19, 2012 (2012 PTIO).

17. 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 Requirements

18. Ohio EPA issued a Title V Permit, No. P0110375, to the Facility on December 17, 2012, with an effective date of January 7, 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.

Findings

20. POET owns and operates an ethanol production plant located at 2111 Sandusky Street, Fostoria, Ohio (the Facility).

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

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

23. 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.

24. In November 2011, POET conducted a performance test at the inlet of the scrubber (2011 Performance Test).

25. The 2011 Performance Test identified a VOC loading rate to the scrubber of 554.55 pounds VOC (as propane) per hour.

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 to the VOC loading rate to the scrubber results in an actual VOC loading rate of 871 pounds total VOCs per hour.

28. On November 12, 2014, EPA issued to POET a Notice of Violation and Finding of Violation (NOV/FOV) alleging that the venting of emissions from P007 directly to the atmosphere violated P007 Condition A.2.a.i. of the 2007 PTI, P007 Condition 2.b)(2)a.i. of the 2010 PTIO, and P007 Condition 3.c)(1)(a) of the 2011 PTIO and, further: that VOC emissions exceeded 600 lbs/hr during periods of scrubber downtime from June 19, 2012, through January 6, 2013, in violation of Condition 1.b)(1)a. of the 2012 PTIO; and that VOC emissions exceeded 600 lbs/hr during periods of scrubber downtime from January 7, 2013, through the present in violation of Condition 4.b)(1)a. of the Title V Permit.

29. On December 2, 2014, representatives of POET and EPA discussed the November 12, 2014 NOV/FOV.

Compliance Program

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

31. On or before May 1, 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.

32. 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.

33. Within 30 calendar days following completion of the modification described in Paragraph 32 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.

34. Within 65 calendar days after the completion of the modification described in Paragraph 32 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.

35. 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

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

37. 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.

38. 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 PTI, PTIO, or Title V Permit.

39. 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.

40. 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.

41. 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.

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

43. POET agrees to this Order.

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

5.19.15
Date

Arthur Thomas
Arthur Thomas
General Manager
POET Biorefining – Fostoria

6/2/15
Date

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

CERTIFICATE OF MAILING

I, Kathy Jones, certify that I sent the Administrative Consent Order, EPA-5-15-113(a)-OH-03, by certified mail, return receipt requested, to:

Arthur Thomas
General Manager
POET Biorefining - Fostoria
2111 Sandusky Street
Fostoria, Ohio 44830

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-15-113(a)-OH-03, 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 3rd day of June, 2015.

for Kathy Jones
Loretta Shaffer
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT
NUMBER:

7014 2870 0001 9580 4961