



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

SEP 16 2016

REPLY TO THE ATTENTION OF

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Steven R. McNinch  
General Manager  
POET Biorefining – Glenville  
15300 780th Avenue  
Albert Lea, Minnesota 56007

Re: Administrative Consent Order, EPA-5-16-113(a)-MN-03

Dear Mr. McNinch,

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) 886-6797.

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: Katie Koelfgen, MPCA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>In the Matter of:</b>	)	<b>EPA-5-16-113(a)-MN-03</b>
	)	
<b>Agra Resources, LLC d/b/a</b>	)	<b>Proceeding Under Section 113(a)(1)</b>
<b>POET Biorefining - Glenville</b>	)	<b>of the Clean Air Act,</b>
<b>Albert Lea, Minnesota</b>	)	<b>42 U.S.C. § 7413(a)(1)</b>
	)	
	)	

---

**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 Agra Resources, LLC, doing business as POET Biorefining - Glenville (POET), under Section 113(a)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(1).

2. POET owns and operates an ethanol production plant located at 15300 780th Avenue, Albert Lea, Minnesota (the Facility).

**Statutory and Regulatory Background**

**Federally Enforceable State Operating Permit Program**

3. On May 24, 1995, EPA approved Minnesota Administrative Rules (MAR) 7007.0050 through 7007.1850 as part of the federally-enforceable Minnesota State Implementation Plan (Minnesota SIP). 60 Fed. Reg. 27411.

4. MAR 7007.0050 through 7007.1850 authorize the Minnesota Pollution Control Agency (MPCA) to issue federally-enforceable state operating permits (FESOPs) with such terms and conditions as are necessary to ensure compliance with applicable laws and to ensure adequate protection of environmental quality.

5. Section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1), 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 an applicable implementation plan or permit.

POET FESOP Requirements

6. The MPCA issued Air Emission Permit No. 04700055-001 to the Facility with an effective date of July 31, 1996. MPCA issued modifications to the permit on March 16, 1999; December 23, 1999; November 9, 2000; May 11, 2005 (2005 Permit); and May 4, 2012 (Current Permit).

7. For the emission control unit classified as CE 006 – Packed Gas Adsorption Column (Distillation Scrubber), which controls emissions from a number of process units associated with distillation, the 2005 Permit required that the pressure drop be maintained between 2.0 and 10.0 inches of water column, and that the pressure drop be recorded once each day of operation.

8. For the Distillation Scrubber, the 2005 Permit required the water flow rate be maintained above 2 gallons per minute, unless a new range was set based on the most recent performance test where compliance was demonstrated, and that the water flow rate be recorded once each day of operation.

9. For the emission control unit classified as CE 019 – Packed Gas Adsorption Column (Fermentation Scrubber), which controls emissions from fermentation tanks and the beer well, the 2005 Permit required that the pressure drop be maintained between 0.5 and 10.0 inches of water column, and that the pressure drop be recorded once each day of operation.

10. For the Fermentation Scrubber, the 2005 Permit required the water flow rate be maintained above 30.0 gallons per minute when emissions were vented through SV005 (when the Carbon Dioxide Plant is not operating), unless a new range was set based on the most recent performance test where compliance was demonstrated, and that the water flow rate be recorded once each day of operation.

11. For the Fermentation Scrubber, the 2005 Permit required that POET operate the pollution control equipment whenever the corresponding process units were operated.

12. For the emission control unit classified as CE 006 – Packed Gas Adsorption Column (Distillation Scrubber), the Current Permit requires that the pressure drop be maintained between 2.0 and 12.0 inches of water column, and that the pressure drop be recorded once each day of operation.

13. For the Distillation Scrubber, the Current Permit requires the water flow rate be maintained above 2.0 gallons per minute, unless a new range is set based on the most recent performance test where compliance was demonstrated, and that the water flow rate be recorded once each day of operation.

14. For the emission control unit classified as CE 019 – Packed Gas Adsorption Column (Fermentation Scrubber), the Current Permit requires that the pressure drop be maintained between 0.5 and 10.0 inches of water column, and that the pressure drop be recorded once each day of operation.

15. For the Fermentation Scrubber, the Current Permit requires the water flow rate be maintained above 30.0 gallons per minute when emissions are vented through SV005 (when the carbon dioxide plant is not operating), unless a new range is set based on the most recent

performance test where compliance was demonstrated, and that the water flow rate be recorded once each day of operation.

16. For the Fermentation Scrubber, the Current Permit requires that POET operate the pollution control equipment whenever the corresponding process units are operated.

#### Findings

17. EPA issued an information request to the Facility under Section 114 of the CAA, dated May 4, 2015 (2015 Information Request).

18. POET provided responses to the 2015 Information Request dated June 11, 2015, and July 10, 2015.

19. Emissions from the distillation and fermentation operations at the Facility are controlled by two separated packed gas adsorption columns (the Distillation Scrubber and the Fermentation Scrubber).

20. Based on the record submitted by POET in response to the 2015 Information Request, from January 1, 2011, through June 16, 2015, POET intermittently: operated the Distillation and Fermentation Scrubbers outside of the permitted differential pressure range; operated the Distillation and Fermentation Scrubbers below the required water flow rate; failed to daily record operating parameters the for Distillation and Fermentation Scrubbers; and operated fermentation units during Fermentation Scrubber downtime in violation of conditions of the 2005 Permit and Current Permit.

21. On March 9, 2016, EPA issued the Respondent a Notice of Violation (NOV) alleging that it violated provisions of the 2005 Permit and the Current permit as outlined in paragraph 20, above.

22. On April 26, 2016, representatives of the Respondent and EPA discussed the NOV.

**Compliance Program**

23. By one year after the effective date of this Order, POET must achieve, demonstrate, and maintain compliance with its operating permit at its Albert Lea, Minnesota, facility.

24. On or before September 30, 2016, POET must apply for a construction permit and/or operating permit modification, as necessary, from MPCA requesting the construction of an additional scrubber which will control emissions from fermentation operations when the existing Fermentation Scrubber is not operational. The permit application(s) must request that the revised Facility operating permit and/or construction permit include the necessary testing, monitoring, recordkeeping, and reporting requirements to ensure that fermentation emissions are adequately controlled.

25. Within 30 days after the approval of the construction by MPCA, POET must begin construction of a new secondary fermentation scrubber which will serve to control emissions from fermentation operations at any time that the existing Fermentation Scrubber is not operational. The scrubber shall be designed to achieve, at a minimum, a 99 percent collection efficiency for VOC emissions, and a 95 percent destruction efficiency for VOCs (or less than 20 parts per million, if the inlet concentration is less than 200 ppm).

26. Within 30 calendar days following completion of the construction of the new scrubber described in paragraph 25, above, POET must send a notification to EPA containing final scrubber design specifications; 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 construction project as completed.

27. Within 65 calendar days after the completion of the construction of the new scrubber described in Paragraph 25, above, POET must test the VOC emissions from the new scrubber. The testing shall determine both the VOC emission rate and the VOC destruction efficiency of the scrubber by testing at the scrubber 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.

28. 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**

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

30. This Order does not restrict EPA's authority to enforce the Minnesota SIP, the facility's Federally Enforceable Operating Permit, or any other section of the CAA.

31. 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 operating permit.

32. 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.

33. 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.

34. 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.

35. This order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic recordkeeping efforts, please furnish an electronic copy on physical media such as compact disk, flash drive or other similar item. If it is not possible to submit the information electronically, submit the response to this Order without staples; paper clips and binder clips, however, are acceptable.

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

37. POET agrees not to contest EPA's authority to issue this Order, and neither admits nor denies the factual allegations or legal conclusions in this Order.

38. POET agrees to this Order. POET waives any remedies, claims for relief, and otherwise available rights to judicial or administrative review that it may have with respect to any issue of fact or law set forth in this Order, including any right of judicial review under Section 307(b) of the CAA, 42 U.S.C. § 7607(b).

39. 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.

8-24-2016  
Date

  
\_\_\_\_\_  
Steve McNinch  
General Manager  
POET Biorefining – Glenville

9/16/16  
Date

  
\_\_\_\_\_  
Edward Nam  
Acting Director  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5

CERTIFICATE OF MAILING

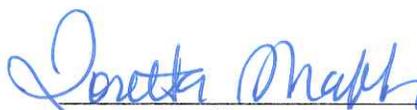
I, Loretta Shaffer, certify that I sent the Administrative Consent Order, EPA-5-16-113(a)-MN-03, by certified mail, return receipt requested, to:

Mr. Steve McNinch  
POET Biorefining - Glenville  
15300 780th Avenue  
Albert Lea, Minnesota 56007

I also certify that I sent a copy of the Administrative Consent Order, EPA-5-16-113(a)-MN-03, by first-class mail to:

Katie Koelfgen  
Manager, Land and Air Compliance  
Minnesota Pollution Control Agency  
520 Lafayette Road North  
St. Paul, Minnesota 55155-4194

On the 19 day of September 2016.



Loretta Shaffer  
Program Technician  
AECAB, PAS

CERTIFIED MAIL RECEIPT  
NUMBER:

7009 1680 0000 7674 0920