



REGIONAL AIR POLLUTION CONTROL AGENCY

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February 19, 2009

Certified Mail

Mr. Neill McKinstry
Vice President/General Manager Ethanol Division
The Andersons Marathon Ethanol, LLC
480 W Dussel Drive
Maumee, Ohio 43537

NOTICE OF VIOLATION – HPV (Discretionary GC7)

Summary:

On July 16, 2008, the Regional Air Pollution Control Agency (RAPCA) began conducting a Full Compliance Evaluation (FCE) of The Andersons Marathon Ethanol, LLC (Andersons), Ohio EPA Facility ID 0819750245, in Greenville, Ohio. As a result of this FCE, RAPCA discovered several violations of the federal, state and local air pollution control regulations and the Permit to Install (PTI) 08-04878 with regards to numerous emissions units (EUs) at this facility. Specifically, for EUs B001 and B002, Andersons failed to comply with the requirement to install and operate a Continuous Emission Monitoring System (CEMS), a Continuous Emission Rate Monitoring System (CERMS) and to perform an initial compliance demonstration within the required time. Andersons has also failed to fully develop and implement a facility Leak Detection and Repair (LDAR) program to address volatile organic compound (VOC) emissions from EUs P005, P006, P007, P013 and P801, and to conduct an initial compliance demonstration for EUs P006 and P902 within the required time frame. In addition, for EUs B001, B002 and P801, Andersons failed to satisfy reporting requirements; and with the exception of EUs P901 and P904, Andersons failed to submit the requisite operating permit applications for the EUs included in PTI 08-04878. Pursuant to federal, state and local air pollution control regulations, enforcement orders may be issued in the future to resolve these violations.

Dear Mr. McKinstry:

On July 16, 2008, the Regional Air Pollution Control Agency (RAPCA) began conducting a Full Compliance Evaluation (FCE) of The Anderson's Marathon Ethanol, LLC (Andersons), Ohio EPA Facility ID 0819750245, located in Greenville, Darke County, Ohio. During the course of the inspections performed, RAPCA documented several violations of federal, state and local air pollution control regulations, and the most recently modified Permit to Install (PTI) 08-04878 issued April 22, 2008. The above mentioned PTI supersedes a previous modification, PTI 08-04878, issued December 27, 2007, and the original PTI 08-04773, issued November 16, 2006. The documented violations pertain to emissions units (EUs) B001 (122 mmBtu/hr Natural Gas-

fired Recuperative Thermal Oxidizer/Waste Heat Recovery Boiler), B002 (122 mmBtu/hr Natural Gas-fired Recuperative Thermal Oxidizer/Waste Heat Recovery Boiler), P005 (Mash and Yeast Operations Controlled with Recuperative Thermal Oxidizers), P006 (Fermentation and Beer Well Controlled with a Scrubber), P007 (Distillation Process Controlled with Recuperative Thermal Oxidizers), P013 (Methanators Vented to DDGS Dryer Numbers 1 and 3 or to a Flare), P801 [VOC (volatile organic compound) Fugitive Emissions] and P902 (DDGS Handling and Cooling Controlled with a Baghouse), as well as permitting violations for all EUs located at this facility, except P901 (Grain Receiving and Handling) and P904 (4 Steel Grain Bins).

The purpose of this letter is to provide notification of the violations found and to seek Andersons' cooperation in their resolution.

I. Failure to Perform Emission Testing on Emissions Units B001 & B002

40 CFR Part 60, Subpart A (Standards of Performance for New Stationary Sources, General Provisions), as well as Part II.E.2 (a) of PTI 08-04878 for EUs B001 and B002, state that the permittee shall conduct, or have conducted, emission testing within 60 days after achieving the maximum production rate at which EUs B001 and B002 will be operating, but not later than 180 days after initial startup of EUs B001 and B002.

Records show that these EUs began operating on February 11, 2008. Therefore, Andersons should have performed the required emission testing, at the latest, by August 9, 2008. On August 4 and 5, 2008, Andersons conducted emission testing, but was unable to perform the initial compliance test on EUs B001 and B002, due to unforeseen complications. On October 1, 2008, Andersons once again attempted to conduct emission testing on EUs B001 and B002, but was unable to successfully complete testing due to equipment malfunctions and control parameter changes. On December 3 through 4, 2008, Andersons made a third attempt to demonstrate initial compliance through the emissions testing of EUs B001 and B002. The initial compliance determination as a result of this testing effort is dependent upon the forthcoming review of the analytical results.

Failure to perform the initial compliance demonstration within 180 days of startup of EUs B001 and B002 (by August 9, 2008) is a violation of 40 CFR Part 60, Subpart A, PTI 08-04878 and Ohio Revised Code (ORC) 3704.05.

II. Failure to Install, Operate and Perform Testing of Continuous Emission Monitoring Systems/Continuous Emission Rate Monitoring Systems on Emissions Units B001 & B002

40 CFR Part 60, Subpart Db (Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units) and PTI 08-04878 provide requirements for the continuous monitoring of emissions of nitrogen oxides (NOx) from EUs B001 and B002.

Specifically, 40 CFR 60.48b(b)(1) states that the owner/operator of an affected facility, subject to a NOx standard under 40 CFR 60.44b, shall install, calibrate, maintain, and operate continuous emission monitoring systems (CEMS) for measuring NOx and O2 (or CO2) emissions discharged to the atmosphere, and shall record the output of the system. Additionally, Part II.C.6 of PTI 08-04878 states that the permittee shall install, operate, and maintain equipment to continuously monitor and record NOx emissions from EUs B001 and B002 in units of the

applicable standard(s).

Pursuant to 40 CFR Parts 60.8(a) and 60.13(c), within 60 days after achieving the maximum production rate, but not later than 180 days after initial startup (by August 9, 2008), the permittee shall conduct certification tests of the NOx CEMS for EUs B001 and B002. Following certification, 40 CFR 60.46b(e) requires the owner/operator of an affected facility to determine compliance with the applicable NOx emissions limits using the NOx CEMS. Andersons 4th quarter 2008 report was submitted on January 29, 2009, and stated that one NOx CEMS for EUs B001 and B002 was installed in January of 2009.

Additionally, Part II.C.6(b) of PTI 08-04878 states that the permittee shall maintain records of data obtained by the NOx CEMS, including emissions of NOx in pounds per hour. The use of a continuous emission rate monitoring system (CERMS) is necessary to convert and record data in units of pounds per hour. In order for the NOx CEMS to be designated a CERMS, installation of an air flow rate sensor is required. Part II.E.3 of PTI 08-04878 requires a certification test to be conducted on the CEMS/CERMS for EUs B001 and B002 to demonstrate compliance with 40 CFR Part 60, Appendix B, Performance Specification 2 and Performance Specification 6 and ORC section 3704.03(I). To date, a NOx CERMS has not been installed at the facility.

Failure to install and operate the required CEMS/CERMS for EUs B001 and B002 within the required timeframe, failure to conduct certification testing on the NOx CEMS within the required timeframe, and failure to conduct performance testing using the NOx CEMS is a violation of 40 CFR Part 60, Subpart Db, PTI 08-04878, and ORC 3704.05.

III. Failure to Develop and Implement a Facility Leak Detection and Repair Program for Emissions Units P005, P006, P007, P013 and P801

40 CFR Part 60, Subpart VV (Standards of Performance for Equipment Leaks of VOC in Synthetic Organic Chemicals Manufacturing Industry), Ohio Administrative Code (OAC) rule and Darke County Board of Health Air Pollution Control Regulations (DCBHAPCR) section 3745-21-09(DD) (Leaks from Process Units that Produce Organic Chemicals) and PTI 08-04878 require Andersons to develop and implement a facility Leak Detection and Repair (LDAR) program for EUs P005, P006, P007, P013 and P801.

Specifically, Part II.A.2(c) of PTI 08-04878 for EU P801 states that the permittee shall include the appropriate process equipment and regulated components in the facility LDAR program. The LDAR program shall comply with the appropriate provisions (including operational restrictions, monitoring and recordkeeping, reporting and testing) of OAC rule and DCBHAPCR section 3745-21-09(DD), and 40 CFR Part 60, Subpart VV. In the case of overlapping provisions, the permittee shall comply with the more stringent requirement. Additionally, Part II.A.2(d) of PTI 08-04878 for EU P801 states the permittee shall develop and implement the facility LDAR program within 180 days of startup (by August 9, 2008). At a minimum, the program shall include all of the appropriate process equipment and regulated components that are subject to this program and clearly identify how the permittee will comply with the appropriate provisions of OAC rule and DCBHAPCR section 3745-21-09(DD) and 40 CFR Part 60, Subpart VV. In addition, 40 CFR 60.482-1(a) states that the owner/operator subject to the provisions of this subpart shall demonstrate compliance with the requirements of 40 CFR 60.482-1 through 40 CFR 60.482-10 or 40 CFR 60.480(e) for all equipment within 180 days of initial startup.

Failure to fully develop and implement a facility LDAR program, within 180 days of initial startup (by August 9, 2008) is a violation of 40 CFR Part 60, Subpart VV, OAC rule and DCBHAPCR section 3745-21-09(DD), PTI 08-04878, and ORC 3704.05.

IV. Failure to Perform Emission Testing on Emissions Units P006 & P902

Part II.E.2(a) of PTI 08-04878 for EUs P006 and P902 states that the permittee shall conduct emission testing to determine initial compliance within 60 days after achieving the maximum production rate at which EUs P006 and P902 will be operating, but not later than 180 days after initial startup of these EUs, which occurred on February 11, 2008. Therefore, the initial compliance test on EUs P006 and P902 should have been performed, at the latest, by August 9, 2008.

On August 4 and 5, 2008, Andersons conducted emission testing, but was unable to perform the initial compliance test on EUs P006 and P902, due to unforeseen complications. On October 1 through 2, 2008, Andersons once again attempted to conduct emission testing on EUs P006 and P902, but was unable to successfully complete testing due to equipment malfunctions and control parameter changes. On December 3 through 5, 2008, for EU P902 and December 8 and 10, 2008, for EU P006, Andersons made a third attempt to demonstrate initial compliance through emissions testing. The initial compliance determination as a result of these testing efforts is dependent upon the forthcoming review of the analytical results.

Failure to perform the initial compliance test within 180 days of startup of EUs P006 and P902 (by August 9, 2008) is a violation of PTI 08-04878 and ORC 3704.05.

V. Failure to Comply with Reporting Requirements for Emissions Units B001, B002 and P801

Part II.D.4 of PTI 08-04878 and 40 CFR 60.49b requires Andersons to submit quarterly reports for the NOx CEMS associated with EUs B001 and B002. As discussed above, Andersons failed to install the required NOx CEMS within the required timeframe. Although the monitoring system wasn't installed within the required timeframe, Andersons is still subject to the reporting requirements contained in Part II.D.4 of PTI 08-04878 for EUs B001 and B002 and 40 CFR 60.49b.

Failure to submit quarterly excess emissions reports for the NOx CEMS associated with EUs B001 and B002 is a violation of 40 CFR 60.49b, PTI 08-04878 and ORC 3704.05.

In addition, Part II.F.3 of PTI 08-04878 for EU P801, as well as 40 CFR 60.487, require Andersons to submit an initial semiannual report for the LDAR compliance program, six months after the initial startup date, which occurred on February 11, 2008. Semiannual reports are required to be submitted every six months, thereafter. The first semiannual report was due by August 11, 2008. Andersons submitted their first semiannual report for the LDAR compliance program on February 2, 2009.

Failure to submit the initial semiannual report for EU P801 six months after the initial startup date (by August 11, 2008) is a violation of 40 CFR 60.487, PTI 08-04878 and ORC 3704.05.

VI. Failure to Submit Permit to Operate/Permit to Install and Operate Applications for Permitted Emissions Units, Except P901 and P904

Part I.A.13 of PTI 08-04878 states that the permittee shall submit a complete operating permit application within ninety (90) days after commencing operation of the emissions units pursuant to OAC and DCBHAPCR Chapter 3745-35. Operations began on February 11, 2008, and Permit to Operate (PTO) applications, therefore, should have been submitted no later than May 11, 2008.

On June 30, 2008, Chapter 3745-35 was rescinded from both the OAC and DCBHAPCR. All operating permit requirements for sources at facilities not subject to OAC 3745-77 (i.e., non Title V facilities) were incorporated into OAC and DCBHAPCR Chapter 3745-31. Specifically, OAC rule and DCBHAPCR section 3745-31-02(A)(1)(b) states that no person shall cause, permit, or allow the installation or modification, and subsequent operation of any new source without first obtaining a Permit to Install and Operate (PTIO) from the director. Therefore, after June 30, 2008, the requirement to submit a PTO application was replaced with the requirement to submit a PTIO application.

To date, RAPCA has only received a PTIO application for EUs P901 and P904, dated November 5, 2008. RAPCA has not received the PTIO applications for any other EUs located at the facility. Failure to submit all operating permit applications by May 11, 2008, is a violation of PTI 08-04878, OAC and DCBHAPCR Chapter 3745-31 and ORC 3704.05.

Resolution

In order to resolve the above mentioned violations, RAPCA requires that Andersons submit a compliance plan and schedule to bring all EUs at this facility into compliance with the applicable air pollution control regulations. At a minimum, Andersons shall submit:

- (1) A plan and schedule to install and operate the required NOx CEMS/CERMS on EUs B001 and B002, and to conduct the requisite certification and performance testing on the NOx CEMS/CERMS. This may include alternate methods of operation, monitoring and testing subject to approval by U. S. EPA.
- (2) The date upon which the facility LDAR program (P801 Fugitive VOC Emissions) was fully developed and the date upon which Andersons began monitoring the fugitive VOC emissions from EUs P005, P006, P007 and P013.
- (3) All delinquent quarterly excess emissions reports for the NOx CEMS/CERMS required for EUs B001 and B002 reporting the lack of data due to the absence of a monitoring system(s). In the future, once a monitoring system is established and operational, these reports shall include all information required in Part II.D.4. of PTI 08-04878 for EUs B001 and B002.
- (4) With the exception of P901 and P904, PTIO applications for all EUs included in PTI 08-04878.

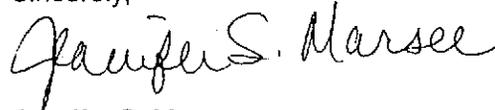
The compliance plan and schedule shall be submitted expeditiously, but in no event later than thirty (30) calendar days after receipt of this letter. Acceptance of the compliance plan and schedule by RAPCA does not constitute a waiver of the Ohio EPA's and RAPCA's authority to pursue civil penalties as provided in sections 3704.06 and 3707.49 of the Ohio Revised Code. The determination whether or not to pursue such penalties will be made by Ohio EPA and

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RAPCA at a later date.

If you have any questions regarding this matter, please contact Jefferis R. Canan, Lesley A. Jenkins or me at (937) 225-4435.

Sincerely,



Jennifer S. Marsee
Supervisor, Abatement Unit
Regional Air Pollution Control Agency

cc:	John Paul	RAPCA
	Jefferis Canan	RAPCA
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PS Form 3800, August 2006

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 Maumee, OH 43537

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