



## REGIONAL AIR POLLUTION CONTROL AGENCY

Serving Clark, Darke, Greene, Miami, Montgomery & Preble Counties

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June 28, 2010

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 GC9)**

**Summary:** Following review of the continuous emission rate monitoring system (CERMS) excess emissions reports (EERs) for The Andersons Marathon Ethanol, LLC (Andersons) facility, RAPCA has identified exceedances of the NO<sub>x</sub> pound per hour (lb/hr) emissions limitation for emissions units (EUs) B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902. RAPCA considers the exceedance time of the NO<sub>x</sub> lb/hr limit to be excessive and in violation of Permit to Install (PTI) 08-04878. Additionally, the EERs contained reporting deficiencies and discrepancies in violation of PTI 08-04878. Furthermore, Andersons reported excessive deviations of the minimum three-hour average temperatures in the recuperative thermal oxidizers (RTOs) for the above EUs in all four quarterly deviation reports for 2009 and first quarter 2010. Pursuant to state and local air pollution control regulations, enforcement orders may be issued in the future to resolve these violations.

Dear Mr. McKinstry:

This Notice is in regards to the NO<sub>x</sub> CERMS and RTOs that Andersons owns and operates at its ethanol plant located on 5278 Sebring-Warner Road in Greenville, Darke County, Ohio. The facility is identified by Ohio EPA facility ID 0819750245. Following review of Anderson's EERs for the third and fourth (calendar) quarters of 2009 and first quarter 2010, RAPCA has identified violations of the NO<sub>x</sub> lb/hr emissions limitation and reporting requirements established in PTI 08-04878 for EUs B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902. Additionally, Andersons reported numerous deviations of the RTO minimum three-hour average temperatures for the EUs listed above in every quarter of 2009 and first quarter 2010.

**I. Failure to Comply with the NOx Hourly Emissions Limit and Excess Emissions Reporting Requirements for Emissions Units B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902.**

Andersons owns and operates, among other equipment, 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), P007 (Distillation Process Controlled with Recuperative Thermal Oxidizers), P008, P009, P010, P011 (45 mmBtu/hr DDGS Dryers No. 1 - 4 controlled with a Recuperative Thermal Oxidizer), P013 (Methanators Vented to DDGS Dryer Numbers 1 and 3 or to a Flare) and P902 (DDGS Handling and Cooling Controlled with a Baghouse). PTI modification 08-04878 was issued on April 22, 2008 for the above emissions units. This PTI modification supersedes a previous modification PTI 08-04878, issued December 27, 2007, and the original PTI 08-04773, issued November 16, 2006.

Emissions from EUs P005, P007-P011, P013 and P902 are vented either directly or indirectly to EUs B001 and B002 and ultimately through a common stack shared by EUs B001 and B002. PTI 08-04878 requires Andersons to continuously monitor and record NOx emissions from EUs B001 and B002 in units of the applicable standard(s) and submit quarterly EERs for the NOx CERMS. Pursuant to PTI 08-04878, combined NOx emissions from EUs B001, B002, P005, P007, P008, P009, P010, P011, P013 (except emissions vented to the flare) and P902 (except emissions vented to Stack S70) shall not exceed 21.2 lbs/hr. In addition to performance testing, compliance for each of the above EUs shall be demonstrated through data recorded by the NOx CERMS.

The NOx CERMS was deemed certified by Ohio EPA on July 30, 2009. Andersons began submitting quarterly EERs following the monitor's certification. The first EER contained data from third quarter 2009 covering the portion of the quarter for which the monitor was certified, July 30 through September 30. EERs submitted by Andersons documented 3.1%, 5.6 % and 16.1 % excess NOx lb/hr emissions during third quarter 2009, fourth quarter 2009 and first quarter 2010 respectively for EUs B001 and B002 combined. A significant increase in excess NOx lb/hr emissions can be seen over the three quarters since reporting began. Andersons did not submit any additional correspondence to address this increase in excess NOx emissions or note any measures that were being considered to reduce the number of exceedances. RAPCA considers the exceedances for third quarter 2009, fourth quarter 2009 and first quarter 2010 to be excessive and in violation of the lb/hr NOx limitation contained in PTI 08-04878 for EUs B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902, and ORC 3704.05.

In addition to the excess NOx emissions, RAPCA has identified reporting deficiencies and discrepancies associated with the quarterly NOx EERs required for EUs B001 and B002. Pursuant to PTI 08-04878, Andersons is required to include the following information in the quarterly reports for EUs B001 and B002:

1. The location of the continuous NOx monitor;
2. The total NOx emissions for the calendar quarter in tons;
3. The date and time of commencement and completion, duration and magnitude of each exceedance.

In regards to item #3, pursuant to PTI 08-04878 and the applicable reporting requirements contained in 40 CFR 60.7, written reports shall contain the date and time of commencement and completion, duration and magnitude of each exceedance. In the case of the lb/hr NOx emissions limitation, the averaging period is based on a one-hour average. Thus, each one-hour exceedance period must be reported with the corresponding date, time, magnitude (lb/hr average) as well as the reason and corrective action for the one-hour period. Andersons' EERs have not provided this information for each exceedance. Rather, the entire period for each contiguous event was summarized under one entry, at times lasting over 24 hours. For example, on January 2, 2010, seven hours of excess NOx emissions were reported from 14:00 to 21:00 hours, with a magnitude of 31.81 lbs/hr. Instead of a single entry, there must be seven entries, one for each hour an exceedance was documented, with the corresponding magnitude for each hour. RAPCA requires that Andersons submit revised EERs containing each hourly exceedance period and the associated information identified above for third quarter 2009, fourth quarter 2009 and first quarter 2010.

The above items (#1-3) were not included in the third and fourth quarter 2009 and first quarter 2010 reports for EUs B001 and B002 in violation of PTI 08-04878, and ORC 3704.05. RAPCA requests that Andersons submit revised EERs containing the above information for third quarter 2009, fourth quarter 2009 and first quarter 2010.

RAPCA also requires that the EER revisions referenced above contain additional detail in the "reason" and "action" sections. For example, the first quarter 2010 EER listed 135 hours of excess NOx emissions due to "process problems" under the reason column. The corresponding corrective actions provided were vague and general. On March 17 and 18, 2010, Andersons reported three one-hour exceedance periods with no reason or action codes. In cases where a reason/action code is lost or missing, it is necessary to review the operation and maintenance log books and/or consult with plant operators to provide the required information. The purpose of the EER is to provide a detailed and specific explanation of the plant's processes, problems and corrective actions which are directly attributable to the excess emissions. RAPCA requires that Andersons submit revised EERs containing a more thorough description, where appropriate, of the reasons and corrective actions for each excess emissions exceedance that occurred during third quarter 2009, fourth quarter 2009 and first quarter 2010.

Following review of Andersons' EERs for fourth quarter 2009 and first quarter 2010, RAPCA suspects that Andersons has experienced numerous excess NOx emissions due to process or equipment malfunctions. There were many incidents in the EERs which attributed the reported

NO<sub>x</sub> exceedances to "process problems", "plant maintenance", or "lost dryers". These explanations suggest that malfunctions may have occurred during at least some of those incidents. However, no malfunction notification has been submitted to RAPCA since February 2009. Pursuant to PTI 08-04878, "*The malfunction of any emissions units or any associated air pollution control system(s) shall be reported to the appropriate Ohio EPA District Office or local air agency in accordance with paragraph (B) of Ohio Administrative Code (OAC) rule 3745-15-06.*" OAC 3745-15-06 (B) states, "*In the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the person responsible for such equipment shall immediately notify the Ohio environmental protection agency district office or delegate agency of such failure or breakdown.*" RAPCA believes that Andersons may be in violation of PTI 08-04878, OAC rule and Darke County Board of Health Air Pollution Control Regulations (DCBHAPCR) section 3745-15-06 (B) for failing to report malfunctions. Please identify any malfunctions which are attributable to the EER exceedances reported for third quarter 2009, fourth quarter 2009 and first quarter 2010. For any such malfunctions, the required reporting procedures in OAC 3745-15-06 shall also be completed and revised EERs submitted for the appropriate reporting quarter(s).

**II. Failure to Maintain the Minimum Three-Hour Average Temperature in RTOs TO1(associated with B001) and TO2 (associated with B002).**

RTOs 1 and 2 (TO1 and TO2) serve as emissions control for EUs B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902. Pursuant to the Monitoring and/or Recordkeeping Requirements contained in PTI 08-04878 Part II.C.3 for EUs B001 and B002, Part II.C.1 for EUs P005, P006, P007, P013 and P902, and Part II.C.2 for EUs P008, P009, P010 and P011, the acceptable value for the average combustion temperature within the RTOs, for all three-hour blocks of time when these EUs are in operation, shall not be more than 50 degrees Fahrenheit (°F) below the average temperature maintained during the most recent emissions test that demonstrated compliance. The average RTO temperature during the most recent performance test conducted on December 3-5, 2008, was 1526.5 °F for TO1 and 1531.7 °F for TO2. Therefore, no three-hour block of time when these EUs are in operation shall have an average RTO temperature of less than 1476.5 °F for TO1 and 1481.7 °F for TO2.

Andersons reported multiple deviations of the RTO minimum three-hour average temperatures for TO1 and TO2 in quarterly deviation reports submitted to RAPCA covering all four quarters of 2009 and first quarter 2010. The attachment (Table 1) lists the reported deviations for TO1 and TO2 during 2009. Andersons reported 25 RTO temperature deviation periods that occurred during first quarter 2010. These first quarter 2010 deviations are not included in the table, due to the fact that the magnitude of the deviations is unknown to RAPCA.

Failing to maintain the RTO minimum three-hour average temperatures for TO1 and TO2 is an indication of improper RTO operation and a violation of the emissions limits in PTI 08-04878. Based on the excessive number and magnitude of the temperature deviations in TO1 and TO2, Andersons is not demonstrating ongoing compliance with the requirement to maintain 98%

control efficiency, in violation of the terms and conditions of PTI 08-04878 for EUs B001, B002, P005, P007, P008, P009, P010, P011, P013, P902 and ORC 3704.05.

In a letter dated May 6, 2010, Andersons submitted requested RTO temperature deviation data for 2009 and provided measures being taken to eliminate the excessive number of deviations. For first and second quarter 2010, Andersons shall submit the records required to be maintained by PTI 08-04878 for any deviations of the minimum RTO temperature. The records shall include the date and time the deviation(s) began, the magnitude of the deviation, the date the investigation was conducted, the names of the personnel who conducted the investigation, and the findings and recommendations of the investigation.

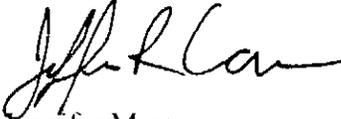
### Resolution

In order to resolve the above-referenced NOx lb/hr excess emissions, EER omissions, and RTO temperature deviation violations, RAPCA requires that Andersons submit a detailed compliance plan and schedule to bring EUs B001, B002, P005, P007, P008, P009, P010, P011, P013 and P902 into continuous compliance with the applicable lb/hr NOx emissions limitation and to eliminate the excessive temperature deviations for TO1 and TO2 to achieve compliance with the 98% control efficiency requirement. The compliance plan and schedule shall be submitted expeditiously, but in no event later than fourteen (14) 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 to pursue such penalties will be made by the Ohio EPA and RAPCA at a later date. All revised EERs and RTO deviation records requested above shall also be submitted to RAPCA within fourteen (14) calendar days after receipt of this letter.

We appreciate your cooperation and hope to resolve this matter as soon as possible. If you have any questions, please contact Christine Swetz, Jeff Canan or me at (937) 225-4435.

Sincerely,

*for*   
Jennifer Marsce

Supervisor, Abatement Unit  
Regional Air Pollution Control Agency

cc:	John Paul	RAPCA
	Jefferis Canan	RAPCA
	Michael Matis	PHDMC
	Lisa Holscher	U.S. EPA
	Tom Kalman	Ohio EPA
	Todd Brown	Ohio EPA
	Ted Hafer	The Andersons Marathon Ethanol, LLC, Greenville, Ohio

T01		
Date	Magnitude (°F)	Duration (hrs)
1/23/2009	87	62
1/29/2009	13	5
1/29/2009	8	19
2/12/2009	10	5
2/27/2009	43	1
2/28/2009	53	2
3/3/2009	8	2
3/9/2009	14	2
3/29/2009	1476	127
4/8/2009	612	5
4/10/2009	755	17
4/13/2009	430	6
4/14/2009	6	1
4/22/2009	289	5
5/2/2009	181	10
5/3/2009	36	5
5/14/2009	54	2
5/24/2009	25	2
5/24/2009	49	2
6/2/2009	5	19
6/18/2009	127	2
6/24/2009	42	3
6/25/2009	71	2
7/1/2009	29	3
7/8/2009	617	9
7/30/2009	229	4
8/10/2009	33	2
8/16/2009	102	6
8/17/2009	43	2
8/17/2009	439	23
8/21/2009	46	2
8/21/2009	85	2
8/21/2009	38	1
8/28/2009	52	4
8/29/2009	120	7
9/9/2009	6	1
9/15/2009	76	3
9/15/2009	23	4
9/18/2009	68	2
9/19/2009	86	3
9/19/2009	15	2
9/20/2009	147	1
9/25/2009	899	13
9/25/2009	23	1
9/25/2009	213	8
10/7/2009	203	8
10/8/2009	294	3
10/20/2009	15	2
10/21/2009	173	4
10/23/2009	115	2
10/30/2009	63	3
11/7/2009	104	2
11/12/2009	21	2
11/13/2009	24	4
11/13/2009	134	2
11/14/2009	83	4
11/19/2009	118	8
12/8/2009	448	7

T02		
Date	Magnitude (°F)	Duration (hrs)
1/23/2009	81	67
1/28/2009	6	2
1/28/2009	1	1
1/29/2009	23	2
1/29/2009	4	30
1/30/2009	8	1
1/30/2009	23	3
2/2/2009	3	3
2/12/2009	27	7
2/26/2009	21	1
2/27/2009	56	2
2/28/2009	63	2
3/2/2009	34	2
3/7/2009	4	3
3/9/2009	1178	6
3/10/2009	2	4
3/29/2009	1481	107
4/8/2009	568	18
4/10/2009	711	20
4/13/2009	347	6
4/22/2009	289	5
5/2/2009	203	13
5/3/2009	77	12
5/12/2009	10	4
5/12/2009	4	1
6/19/2009	421	2
6/26/2009	184	2
6/27/2009	17	3
7/1/2009	22	2
7/7/2009	667	4
7/8/2009	617	10
7/14/2009	8	2
7/20/2009	15	2
7/21/2009	36	2
7/29/2009	28	2
8/10/2009	18	2
8/12/2009	9	2
8/16/2009	105	2
8/16/2009	80	7
8/17/2009	531	32
8/19/2009	404	3
8/21/2009	44	2
8/22/2009	14	2
8/26/2009	17	2
8/28/2009	24	2
8/29/2009	106	5
9/20/2009	562	13
9/25/2009	752	12
9/25/2009	69	3
9/25/2009	181	8
10/4/2009	77	2
10/8/2009	2	1
10/23/2009	11	1
11/18/2009	9	1
11/19/2009	114	5
11/24/2009	25	1
11/25/2009	30	2
12/8/2009	2	1
12/28/2009	114	3

**TABLE 1**

Reported  
Exceedances

Plant Shut Down

Magnitudes for 3 hour durations and less are averages during that time period.

Magnitudes for periods greater than 3 hours are the highest value during that time period.

**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
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7002 0510 0000 7312 0307

Postage	\$	Postmark Here
Certified Fee		
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Pr	Mr. Neil McKinstry	
Sent To	Vice President/General Manager	
Street, Apt or PO Box	Ethanol Division	
City, State	The Andersons Marathon Ethanol, LLC	
	480 W. Dussel Drive	
	Maumee, OH 43537	

Is your RETURN ADDRESS completed on the reverse side?

- SENDER:**
- Complete Items 1 and/or 2 for additional services.
  - Complete items 3, 4a, and 4b.
  - Print your name and address on the reverse of this form so that we can return this card to you.
  - Attach this form to the front of the mailpiece, or on the back if space does not permit.
  - Write "Return Receipt Requested" on the mailpiece below the article number.
  - The Return Receipt will show to whom the article was delivered and the date delivered.

- I also wish to receive the following services (for an extra fee):
- Addressee's Address
  - Restricted Delivery
- Consult postmaster for fee.

3. Article Addressed to: 7002 0510 0000 7312 0307

Mr. Neil McKinstry Vice President/General Manager Ethanol Division The Andersons Marathon Ethanol, LLC 480 W. Dussel Drive Maumee, OH 43537	4b. Service Type <input type="checkbox"/> Registered <input type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD
5. Received By: (Print Name) <i>Neil McKinstry</i>	7. Date of Delivery <i>7-01-10</i>
6. Signature: (Addressee or Agent) <b>X</b> <i>Neil McKinstry</i>	8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.