



Environmental  
Protection Agency

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

September 20, 2012

Mr. Marvin Duren  
Marvin's Organic Gardens  
2055 State Route 42 South  
Lebanon, Ohio 45036

**RE: MARVIN'S ORGANIC GARDENS CLASS 2 COMPOSTING FACILITY, WARREN  
COUNTY, COMPLAINT INSPECTION**

Dear Mr. Duren:

On September 12, 2012, I visited your facility located at 2055 State Route 42 South, Lebanon, Ohio, in response to a complaint received in our office regarding a significant amount of solid waste that was mixed in with your composted material. The purpose of this investigation was to determine compliance with Ohio's Solid Waste Laws, Ohio Revised Code (ORC) 3734 and Ohio Administrative Code (OAC) 3745.

As part of the investigation, I visited the residence of Mr. Mark Feitlinger, to inspect the 500 yards of compost that he purchased from you. During my visit, it was determined that the compost was contaminated with a significant amount of solid waste. It was also determined that the compost you applied to your garden, located at 2055 State Route 42 South, Lebanon, Ohio, was also contaminated with a significant amount of solid waste. You and I then visited your Class 2 composting facility located at 3268 State Route 42 South, Lebanon, Ohio, where I observed solid waste which could be seen on the outside of some of the piles of compost.

The presence of solid waste mixed in with the Feitlinger compost, and solid waste that was mixed in with the compost at your 2055 State Route 42 South, Lebanon, Ohio, location, and at your Class 2 composting facility, located at 3268 State Route 42 South, Lebanon, Ohio, Marvin's Organic Gardens, is classified as open dumping. Open dumping is defined as follows:

**ORC Section 3734.01(I): Open Dumping**

This regulation states in part:

*“ . . . “Open dumping” means the depositing of solid wastes into a body of or stream of water or onto the surface of the ground at a site that is not licensed as a solid waste facility under section 3734.05 of the Revised Code . . . ”*

It was determined that solid waste was mixed in with the Feitlinger compost, the compost at your 2055 State Route 42 South, Lebanon, Ohio, location, and at your Class 2 composting facility, located at 3268 State Route 42 South, Lebanon, Ohio, and was applied directly on the ground as required by ORC Section 3734.01(I).

The presence of solid waste in your compost material is in violation of the Solid Waste Laws and Regulations listed below. These violations are being cited as a result of my September 12, 2012, investigation:

**OAC Section 3745-27-05(C): Open Dumping**

This regulation states in part:

*“ . . . No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734 of the Revised Code, and shall submit verification that the solid waste has been properly managed. . . ”*

It was determined that solid waste was mixed in with the Feitlinger compost, the compost at your 2055 State Route 42 South, Lebanon, Ohio, location, and at your Class 2 composting facility located at 3268 State Route 42 South, Lebanon, Ohio, and was applied directly on the ground. By open dumping solid waste on the previously mentioned properties, you have created an illegal disposal facility.

**ORC Section 3734.02(C): Establishing a Solid Waste Facility Without a Permit**

This regulation requires a facility to have a permit, and states in part:

*“ . . . Except as provided in this division and divisions (N)(2) and (3) of this section, no person shall establish a new solid waste facility or infectious waste treatment facility, or modify an existing solid waste facility or infectious waste treatment facility, without submitting an application for a permit with accompanying detail plans, specifications, and information regarding the facility and method of operation and receiving a permit issued by the director, except that no permit shall be required under this division to install or operate a solid waste facility for sewage sludge treatment or disposal when the treatment or disposal is authorized by a current permit issued under Chapter 3704. or 6111. of the Revised Code. . . ”*

By open dumping solid waste on the properties mentioned above, you have been operating and maintaining a solid waste facility without a permit.

**OAC Section 3745-560-210(C)(1)(a): Operational Requirements for Class II Composting Facilities.** OAC Section 3745-560-210(C)(1)(a) prohibits Class II Composting Facilities from allowing solid waste to be mixed with the composted materials.

Marvin's Organic Gardens has allowed a significant amount of solid waste to be mixed in with the composted materials at the Class II composting facility, located at 3268 State Route 42 South, Lebanon, Ohio.

**OAC Section 3745-560-210(C)(2)(a): Operational Requirements for Class II Composting Facilities.** OAC Section 3745-560-210(C)(1)(a) requires that all solid wastes be immediately removed upon detection.

During my complaint inspection, it was determined that there was a significant amount of solid waste mixed in with the composted materials at the Class II composting facility, located at 3268 State Route 42 South, Lebanon, Ohio, that had not been immediately removed upon detection.

The Ohio Administrative Code (OAC) and the Ohio Revised Code (ORC) specifically prohibit open dumping of solid wastes and illegal disposal of C&DD. As such, acceptance of these materials must cease immediately and corrections of the violations cited herein are expected to begin immediately.

- This letter serves to inform Marvin's Organic Gardens that the solid waste present on all properties mentioned above must be removed (e.g., solid waste in a licensed sanitary landfill) and must be taken to a licensed facility for proper disposal.
- Marvin's Organic Gardens must provide, at a minimum, a time frame for removal of all debris and an action plan for the removal. The plan must also contain the location of the licensed facility where debris will be taken for proper disposal.
- The plan must also contain milestones projecting completion of work by day and/or week.
- Receipts documenting proper disposal must be submitted to Ohio EPA, Southwest District Office (SWDO), Division of Materials and Waste Management (DMWM) at the letterhead address.
- Marvin's Organic Gardens must re-evaluate their inspection procedures to provide assurance that solid waste will not be incorporated into the composted materials.

Mr. Marvin Duren  
September 20, 2012  
Page 4 of 4

- A re-inspection will be scheduled to verify that the clean-up is complete to document your return to compliance with Ohio Law.
- Marvin's Organic Gardens must cease selling compost until there is a demonstration that the compost is clean and free of solid waste.

Please respond in writing within fourteen (14) days of receipt of this correspondence regarding your remedy and implementation schedule in regards to the aforementioned violations.

Compliance with the requirements outlined in this letter shall not relieve you of your obligation to comply with other legal obligations, including, but not limited to, Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, or Resource Conservation and Recovery Act remedying conditions resulting from any release of contaminants to the environment.

Should you require any technical or regulatory assistance, please feel free to contact me at (937) 285-6648.

Sincerely,



Pat Willoughby  
Environmental Specialist  
Division of Materials and Waste Management

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