



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

April 30, 2013

CERTIFIED MAIL

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,
2nd Quarter Inspection, Notice of Violation**

Dear Mr. Duren:

On April 19, 2013, Maria Lammers and I, representing the Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM) conducted a comprehensive inspection at the licensed Class II composting facility located at 3268 State Route 42 South, Lebanon, Ohio (Facility). Mr. Ray Castenada-Perez, facility equipment operator, accompanied us during the inspection at the Facility. The purpose of this inspection was to determine the owner/operator's compliance with Ohio Revised Code (ORC) Chapter 3734, Ohio Administrative Code (OAC) Chapter 3745-560, and ORC 6111. Additionally, Ohio EPA's Southwest District Office (SWDO) has received several complaints regarding a significant amount of odors associated with the operations at the Facility.

The following observations were made during the April 19, 2013 inspection:

1. Miscellaneous solid waste (plastic food or litter container lid, plastic water bottles, plastic mesh fruit bags) was observed in the compost windrow directly southeast of the mulch (bulking agent) stockpile, (see Figure 1).



Fig 1: Solid waste (plastic bottles) in the compost windrows

The owner/operators failure to avoid acceptance of solid waste and allowing solid waste to be mixed with the composting windrow is a violation of OAC Rules 3745-560-210(C)(1)(a) and OAC Rule 3745-560-210(C)(2) which states in part:

"The owner or operator shall not accept any prohibited material at the facility.

(C)(1) Prohibited material includes but is not limited to the following:

(a) Any solid waste, feedstock, bulking agent, or additive other than those feedstocks, bulking agents, or additives authorized by paragraph (B) of this rule.

*(C)(2) If prohibited material is detected, the owner or operator shall **immediately** do the following:*

(a) Remove the prohibited material from the materials placement area.

(b) Manage the prohibited material in accordance with applicable laws and regulations.

(c) Record incidents in the log of operations."

The owner/operator needs to take **immediate** steps to prevent the acceptance of solid wastes when feedstocks are accepted at the Facility. Remove any solid wastes that are observed in the process. Additionally, the management and removal of prohibited materials should be recorded on Ohio EPA's prescribed Daily Log of Operations Form 4b "Self Inspection Checklist" and on Form 5 "Unauthorized Materials" and properly disposed at a licensed municipal solid waste facility. Receipts of waste disposal must be maintained for proof of proper disposal.

2. The compost windrows at the Facility are currently not constructed parallel to the line of slope on the site. The owner/operator's failure to manage authorized materials by utilizing the proper method for windrow composting is a violation of **OAC Rule 3745-560-210(D)(1)**, which states:

"The windrow construction, carbon to nitrogen ratio, moisture content, and turning frequency shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process. Windrows shall be constructed parallel to the line of slope on the site and turned at a minimum four times per year to mix materials, distribute moisture and heat, increase porosity, and change the location of materials in a pile or windrow to ensure consistent composting. If a windrow is in place for at least twelve months, it shall have been turned a minimum of four times during that that period."

3. There are compostable containers (ie. large bags containing tea and trays) and compostable flatware that are not being shredded or otherwise processed prior to incorporating them into the compost windrows, (see Figure 2). The owner/operator's

failure to manage the containers properly is a violation of OAC Rule 3745-560-210(G), which states:

"Compostable containers shall be shredded or otherwise processed to increase the exposed surface area for composting prior to incorporation into the composting process."



Figure 2: Tea in burlap bags, cardboard boxes (Compostable Containers) & red plastic lid and mesh fruit packaging (prohibited solid waste)

4. There were several areas of ponded water next to actively composting windrows containing dark-colored leachate with an oily sheen, litter from the windrows, and biofilm on the water, (see Figure 3). Additionally, there are compost windrows that are partially located within the collection ponds at the Facility. The owner/operator's failure to operate in a manner to divert surface water from material placement areas to reduce the production of leachate and failure to avoid ponding of water in multiple locations is a violation of OAC Rules 3745-560-210(M) and (N) which states:

"OAC Rule 3745-560-210(M) Surface water management. *The owner/operator shall do the following:*

- (1) *Control surface water runoff and runoff, prevent ponding and erosion, and minimize the impact to surface water and ground water.*
- (2) *Manage surface water in accordance with Chapter 6111, of the Revised Code.*
- (3) *Divert surface water from the materials placement area. The land surface of the materials placement area shall be greater than or equal to one percent in slope and*

less than or equal to six percent in slope to direct surface water to collection points or otherwise control the surface water drainage.

- (4) *Monitor surface water runoff or ground water as required by the director or approved board of health if a substantial threat of surface water or ground water pollution exists.*

OAC Rule 3745-560-210(N) Leachate Management, which states:

The owner or operator shall do the following:

- 1) *Take action to minimize the production of leachate.*
- 2) *Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility*
- 3) *Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state."*

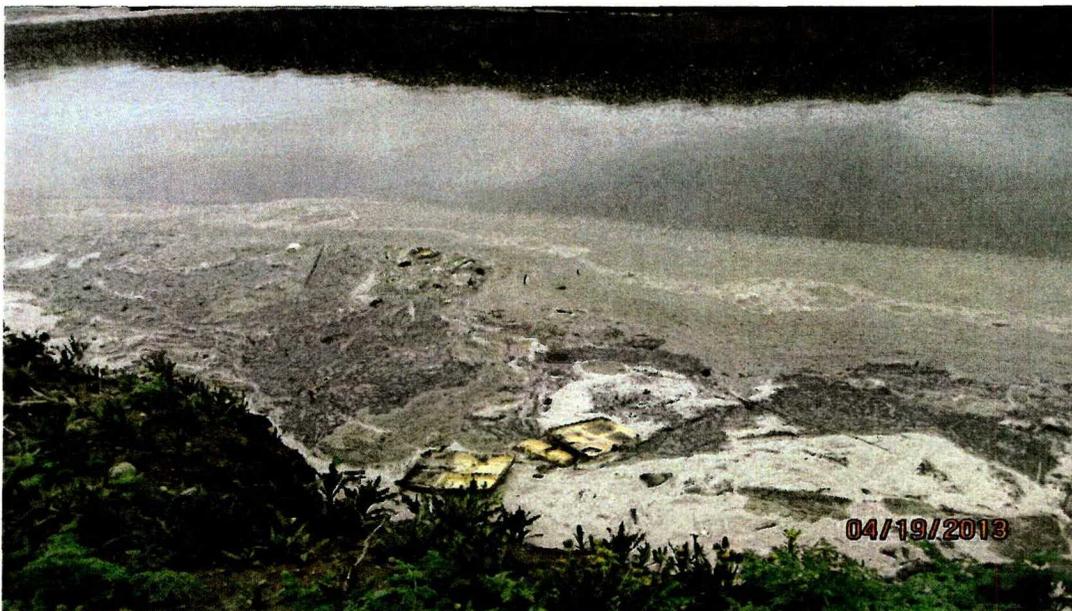


Figure 3: Litter, oily sheen and biofilm on ponded water next to windrow

5. There was a strong pungent odor downwind of the ponds along the eastern side of the Facility during this inspection. Additional partial inspections were conducted on April 12 and 19, 2013, due to odor complaints received by Ohio EPA. Odors were detected offsite on April 19, 2013. The owner/operator's failure to operate in a manner to control odors, divert surface water from material placement areas to reduce the production of leachate and failure to avoid ponding of water in multiple locations **is a violation of OAC Rules 3745-560-210(H)(1) which states in part:**

"OAC Rule 3745-560-210(H)(1) Operational control. The owner or operator shall operate the composting facility in such a manner that does the following: (1) Controls noise, dust, and odors so as not to cause a nuisance or a health hazard."

6. There were several breaks observed along the sides of the ponds containing leachate along the north and east sides of the Facility. Leachate from the ponds was observed overflowing onto the neighboring properties during the inspection, (See Figure 4). Failure to minimize the production of leachate, eliminate the ponding of leachate and contain the leachate within the boundaries of the facility is a violation of OAC Rules 3745-560-210(N)(2) and N(3) which states:

"The owner or operator shall do the following:

- 2) Eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the composting facility*
- 3) Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state."*



Figure 4: Break in the pond on the east side of the Facility

7. Scattered litter and food wastes (coconut and compostable food trays) were observed off-site at neighboring properties to the north and east (farm field) of the Facility, (see Figures 5 and 6). Failure to employ reasonable measures to collect, contain and dispose of scattered litter properly is a violation of OAC Rule 3745-560-210(H)(4), which states:

"Employs reasonable measures to collect, properly contain, and dispose of scattered litter."

Please ensure that items from the composting operation are properly incorporated into the windrows to prevent scattered litter onto adjacent properties.



Figure 5: Coconut found on the neighboring farm field next to the leachate pond



Figure 6: Compostable Food Tray in the grass NE of the Facility

8. The Facility was not incorporating all food scraps into the composting process or combining the bulking agents in a manner to prevent nuisances including but not limited to odors, vectors and litter. Additionally, the Facility was not utilizing the minimum six (6)

inches of biofilter cover in the presence of odors. Food scraps were also observed offsite in the neighboring farm field during the inspection on April 19, 2013. The owner or operators failure to properly manage food scraps **is a violation of OAC Rule 3745-560-210(P)(1) and (2).**

OAC Section 3745-560-210(P)(1), Food scraps management, states;

The owner or operator shall incorporate the food scraps into the composting process or combine with bulking agents in a manner to prevent nuisances including but not limited to odor, vectors, and litter no later than the end of operating hours, as specified in the license application, on the date of receipt.

OAC Section 3745-560-210(P)(2), Food scraps management, states;

The owner or operator shall maintain a stockpile of biofilter material to provide at a minimum a six inch cover to piles containing food scraps and apply a biofilter cover consisting of at a minimum six inches on the piles if odors, dust, or vectors are present or upon written request by Ohio EPA or the approved board of health.

Ohio EPA requests that all food scraps be covered with the minimum six inches of biofilter cover each day, as specified in the license application, on the date of receipt by the end of the working day to prevent odors, vectors and litter.

9. The Compost Daily Logs of Operations were reviewed during the inspection. The Facility is currently using out of date logs, dated 2007. The Facility was to begin using the new compost log forms in 2012 that correspond with the changes in Ohio EPA's Composting Regulations. Additionally, the Facility is not properly recording the activities taking place on the log forms. After speaking with representatives from the Garden Center and the Facility, it is unclear which piles are final compost and have been tested for distribution. Failure to maintain daily logs on forms prescribed by the director **is a violation of OAC Rule 3745-560-215(B)**, which states;

"The owner or operator shall do the following:

- (1) Record the facility operations on the log of operation forms as specified in rule 3745-560-04 of the Administrative Code.*
- (2) Complete the log of operation daily at an active composting facility and once per month at an inactive composting facility."*

The Facility must immediately begin using the 2012 Compost Facility Daily Log Forms.

The owner or operator's failure to comply with all applicable laws and regulations is a very serious matter. Continued lack of response and cooperation will result in an escalated enforcement action.

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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, R.S.
Environmental Specialist II
Division of Materials and Waste Management



Maria Lammers, R.S.
Environmental Specialist II
Division of Materials and Waste Management

PW/kb

ec: Mike Yetter, Warren County Zoning Department
Dennis Murray, Warren County Health Department

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature X <i>[Signature]</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery 5-3-03</p>
<p>1. Article Addressed to:</p> <p>MR. MARVIN DUREN MARVIN'S ORGANIC GARDENS 2055 STATE ROUTE 42 SOUTH LEBANON, OHIO 45036</p>	<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7005 2570 0001 6229 3663</p>
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