



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

June 17, 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  
Complaint Inspection / Re-Inspection  
Notice of Violation**

Dear Mr. Duren:

On June 3, 2013, I visited your licensed Class II composting facility located at 3268 State Route 42 South, Lebanon, Ohio (Facility). The purpose of the visit was to investigate a significant amount of odors associated with the operations at the Facility that were impacting the surrounding neighbors and to conduct an inspection to determine the owner/operator's compliance with my previous Notice of Violation issued May 10, 2013.

The following observations were made during my June 3, 2013 inspection:

1. Miscellaneous solid waste (plastic food container and an aluminum can) was observed in compost pile number four (4).

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. 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. There are compostable containers (i.e. large bags containing tea and trays) and compostable flatware that were not shredded or otherwise processed prior to incorporating them into the compost windrows. 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."*

It should be noted here that during my inspection, you indicated that you are no longer accepting compostable bags, containers and flatware. However, Marvin's Organic Gardens must adequately inspect all compost piles for materials that were not properly shredded and dispose of those materials as solid waste.

3. The Facility was not utilizing the minimum six (6) inches of biofilter cover in the presence of odors as food waste is still visible in the compost piles. The owner or operators failure to properly manage food scraps remains a violation of OAC Rule 3745-560-210(P)(2).

**OAC Rule 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.

4. During the June 3, 2013 inspection, Mr. Duren asked if the compost pile identified as MH6 could be sold as final compost product if screened. As previously discussed and included in Ohio EPA's Notice of Violation letter dated May 10, 2013, item number seven (7), due to the multitude of solid wastes found within the compost pile identified as MH6 this material does not meet the definition of a final compost product and may not be distributed. Additionally, after receiving guidance from Ohio EPA's DMWM-Central Office it was determined that:

*After a composite sample is sent to the lab for analysis, the pile of tested compost should not be contaminated or manipulated so as to alter the representation of the samples. If any of the regulatory limits is exceeded, the compost may not be distributed.*

*In addition to the laboratory analysis, a compost facility operator must ensure that visible solid wastes are not commingled in the compost when distributed. For example, plastics (including compostable plastics that have not decomposed), metal cans, and other visible solid wastes (including organics that have not decomposed fully through the composting process) that are commingled with a pile of compost would render the entire pile as a solid waste. The property owner or persons involved in the land application of such solid waste would be in violation of open dumping.*

**As such, this pile may NOT be distributed at this time. Prior to distribution, the entire pile must be screened and re-analyzed due to the solid waste in the pile.**

**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 could result in an escalated enforcement action.**

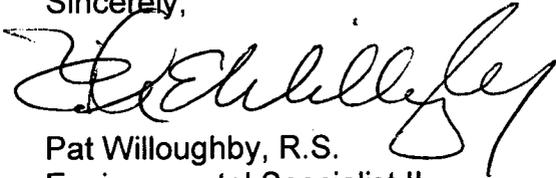
**Please respond in writing within fourteen (14) days of receipt of this correspondence regarding your remedy, work plan and implementation schedule in regards to the aforementioned violations.**

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.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Pat Willoughby". The signature is fluid and cursive, with a large loop at the end.

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

PW/tb

cc: Mike Yetter, Warren County Zoning Department

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Sent To	Mr. Marvin Duren
Street, Apt. No., or PO Box No.	Marvin's Organic Gardens 2055 State Route 42 South
City, State, ZIP+4	Lebanon, Ohio 45036

PS Form 3800, August 2006 See Reverse for Instructions

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

2. Article Number  
(Transfer from service label)

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