

**STATE OF RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

OFFICE OF COMPLIANCE & INSPECTION

IN RE: Rhode Island Bioenergy Facility, LLC

File No.: OCI-AIR-23-80

IMMEDIATE COMPLIANCE ORDER

A. INTRODUCTION

Pursuant to § 42-17.1-2(21) of the Rhode Island General Laws, as amended, (“R.I. Gen. Laws”) you are hereby notified that the Director of the Rhode Island Department of Environmental Management (“Director” of “RIDEM”) has determined that the above named party (“Respondent”) is ORDERED TO TAKE THE FOLLOWING IMMEDIATE ACTION to protect the environment in response to conditions that violate one or more of the following statutes and /or regulations as further detailed in this Immediate Compliance Order (“ICO”).

B. FACTS

- (1) The Facility is located at 289 Scituate Avenue, in Johnston, Rhode Island (“Facility”) and is operated by Respondent.
- (2) The Facility is a stationary source of air pollutants subject to Rhode Island’s Air Pollution Control (“APC”) Rules, including, but not limited to, Rhode Island Code of Regulations, 250-RICR-120-05-7 (“Part 7”), titled *Emission of Air Contaminants Detrimental to Person or Property* and 250-RICR-120-05-17 (“Part 17”), titled *Odors* (collectively, “Odor Rules”)
- (3) On 13 September 2023, RIDEM inspected the area surrounding the Facility (“First Inspection”). The First Inspection was conducted in response to multiple complaints received by RIDEM on the 11th, 12th, and 13th of September 2023 of a “horrible” and “unbearable” odor which was present both outside and inside a building located directly adjacent to and beyond the property line of the Facility.

The inspection commenced at 9:20 am and lasted until 9:50 am and revealed the following:

- a. The inspectors detected a strong, distinct, putrid, rancid odor at a location directly adjacent to and beyond the property line of the Facility.
- b. Based on observations made by the inspectors, the source of the odor was determined to be the Facility.
- c. At the time of inspection, the inspectors determined that the odor was objectionable in violation of Part 17.

- d. Additionally, the inspectors stated that the emissions associated with the odor were strong enough to cause avoidance, which constitutes a violation of Part 7 and Part 17.
- (4) On 18 September 2023, RIDEM inspected the area surrounding the Facility (“Second Inspection”). The Second Inspection was conducted in response to multiple complaints received by RIDEM on the 14th, 15th, and 18th of September 2023 of a horrible odor present both outside and inside a building located directly adjacent to and beyond the property line of the Facility.

The inspection commenced at 12:30 pm and lasted until 1:30 pm and revealed the following:

- a. The inspector detected a strong, distinct, putrid, rotten odor at a location directly adjacent to and beyond the property line of the Facility.
- b. Based on observations made by the inspector, the source of the odor was determined to be the Facility.
- c. At the time of inspection, the inspector determined that the odor was objectionable in violation of Part 17.
- d. Additionally, the inspector stated that the emissions associated with the odor was so strong that he returned to inside his vehicle within a few minutes of exposure to escape the odor, which constitutes a violation of Part 7 and Part 17.

C. VIOLATIONS

Based on the foregoing facts, RIDEM has determined that violations of the following regulations exist:

- (1) **APC Rules, Part 7.6** – prohibiting any person from emitting any contaminant which either alone or in connection with other emissions, by reason of their concentration or duration, may be injurious to human, plant or animal life, or cause damage to property or which unreasonably interferes with the enjoyment of life and property.
- (2) **APC Rules, Part 17.5** – prohibiting any person from emitting or causing to be emitted into the atmosphere any air contaminant or combination of air contaminants which creates an objectionable odor beyond the property line of said person.

D. IMMEDIATE COMPLIANCE ORDER

Pursuant to R.I. Gen. Laws §§42-17.1-2(21)(ii)(A), Respondent is hereby ORDERED to IMMEDIATELY keep the doors to the Facility closed at all times until such time as Respondent submits a plan to RIDEM that is approved by RIDEM that prevents all objectionable odors from the Facility from traveling beyond the Facility property line when the doors are open. The ICO will be effective for 45 days after issuance and may be renewed for one additional period of 45 days.

E. NO RIGHT TO ADMINISTRATIVE HEARING

- (1) Pursuant to R.I. Gen. Laws §§42-17.1-2(21)(ii)(A), Respondent has NO RIGHT TO AN ADMINISTRATIVE HEARING regarding the ICO in that RIDEM has determined that the actions specified herein are immediately necessary to protect prevent harm to the environment.
- (2) The ICO is a final Compliance Order and is enforceable in Superior Court. See R.I. Gen. Laws §§42-17.1-2(21)(vi).
- (3) Failure to comply with the ICO may subject each Respondent to additional civil and/or criminal penalties as possible by law.
- (4) The ICO does not preclude RIDEM from taking any additional enforcement action nor does it preclude any other local, state, or federal governmental entities from initiating enforcement actions based on the acts or omissions described herein.

If you have any legal questions, you may contact (or if you are represented by an attorney, please have your attorney contact) Jenna Giguere of RIDEM's Office of Legal Services at (401) 222-6607 ext. 2772306 or at jenna.giguere@dem.ri.gov. All other inquiries should be directed to Christina Hoefsmit of RIDEM's Office of Compliance and Inspection at (401) 222-1360, ext. 2772023 or at christina.hoefsmit@dem.ri.gov.

Christina Hoefsmit, Deputy Administrator
RIDEM

Dated: _____

CERTIFICATION

I hereby certify that on the _____ day of _____
the within Immediate Compliance Order was forwarded to:

Rhode Island Bioenergy Facility, LLC
c/o Corporation Service Company, Resident Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

by Certified Mail.

I hereby certify that on the _____ day of _____
the within Immediate Compliance Order was forwarded to:

Rhode Island Bioenergy Facility, LLC
c/o Corporation Service Company, Resident Agent
222 Jefferson Boulevard, Suite 200
Warwick, RI 02888

Rhode Island Bioenergy Facility, LLC
289 Scituate Avenue
Johnston, RI 02919

by Hand Delivery.
