



# COUNTY OF MONTEREY HEALTH DEPARTMENT

Elsa Jimenez, Director of Health

Administration      Clinic Services      Public Health  
Behavioral Health      Emergency Medical Services      Public Administrator/Public Guardian  
Environmental Health/Animal Services

*Recipient of The California Endowment's 2017 Arnold X. Perkins Award for Outstanding Health Equity Practice*

## Notice of Violation

February 13, 2019

Zero Waste Energy, LLC,  
Operator/Applicant

C/O Michael Hardy, ZWE, Project Manager  
3478 Buskirk Ave, Suite 265  
Pleasant Hill, CA 94523

Monterey Regional Waste Management District,  
Land Owner

C/O Tim Flanagan, MRWMD, General Manager  
P.O.Box 1670  
Marina, CA 93933

### **RE: Compliance with In-Vessel Digestion Permit Requirements, Title 14 CCR 17896.12**

Dear Mr. Hardy:

On January 11, 2019, the Monterey County Health Department, Local Enforcement Agency (LEA), received a Registration Permit application from Zero Waste Energy (ZWE) for SmartFerm, the anaerobic digestion plant currently operating at 14201 Del Monte Blvd, Marina, Ca 93933. ZWE is applying to operate a medium volume in-vessel digestion facility to receive between 15 tons per day to 100 tons per day and not to exceed 700 tons per week of organic waste including food waste.

The Monterey County Health Department, LEA, pursuant to Title 14, Section 18104.2, has determined that the submitted Registration Permit application does not meet the requirements for an In-Vessel Registration Permit application and is therefore deemed not complete and not correct.

#### **Findings**

The submitted application consisted of four pages which included the Registration Permit application form 83, a general description, a site plan, and a general facilities map. The application did not include the following operational plans:

- a. In-Vessel Digestion Facility Plan, 14 CCR, 17896.14 & 18221.5.1
- b. Odor Minimization Plan, 14 CCR, 17896.31

The above operational documents are required to be filed at the time of application for a medium volume in-vessel digestion facility pursuant to Title 14, Sections 18221.5.1 and 17896.31.

### **Inspection Violations**

SmartFerm began operating as a Research Composting Operation under the Enforcement Agency Notification tier in May 2013. Per Title 14, 17862(d), the maximum allowable time to operate under this notification is four years- the initial two years then two additional years as an extension. The LEA began noting an Area of Concern (AOC) for time exceedance on routine inspection reports beginning August 16, 2016 with violations issued on September 25, 2018 and October 16, 2018 for operating beyond allowable timeframes.

Since April 29, 2016, the LEA noted the following standards as being AOCs or violations:

Odor Control, Section 17867(a)(2)  
Leachate Control, Section 17867(a)(13)  
Vectors/LitterHazard/Nuisance/Noise/Dust, 17867(a)(3)  
Compost Contamination, 17867(a)(5)

SmartFerm is operating without a valid permit and, based on previous routine inspections, does not meet state minimum standards for its current operation. As an in-vessel digestion operation working as a notification, SmartFerm is required to meet new standards for in-vessel digestion per Title 14, Section 17896.3. Therefore, in order to continue to operate as an in-vessel digestion operation, SmartFerm is required to complete the following corrective actions:

### **Corrective Actions**

To correct these outstanding violations, ZWE, as the operator of SmartFerm, may choose one of the following options:

#### **Option A**

1. Within 15 (fifteen) days, temporarily close operations to correct operational conditions to meet state minimum standards for in-vessel digestion per Title 14, Chapter 3.2, Article 1.
2. Within 15 (fifteen) days, provide notice to the LEA, relevant governing agencies, and customers of the temporary closure. All feedstock is to be redirected to the landfill or other permitted facilities allowed to process the material. Additionally, per Section 17870 for site restoration, all organic material currently onsite must be removed to a permitted operation or facility for disposal or processing.
3. Within 30 (thirty) days submit a plan to re-open pending operational corrections.
4. Within the closure period, submit to the LEA a complete and correct Registration Permit application that includes the following:
  - a. In-Vessel Digestion Facility Plan, 14 CCR, 17896.14 & 18221.5.1 This plan must include descriptions on how the operations will comply with state minimum standards specified in sections 17896.17 through 17896.61.
  - b. Odor Minimization Plan, 14 CCR, 17896.31
  - c. Odor Best Management Practice Feasibility Report specified in Title 14, Section 17863.4.1. As the facility has had numerous AOCs regarding odor, the LEA will require a feasibility report as part of the application.
  - d. A Registration Permit application fee.

**Option B**

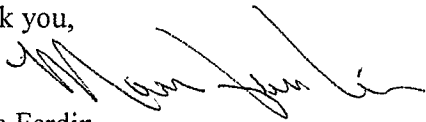
5. Within 45 (fourty five) days of receipt of this notice, submit the following outstanding operational documents:
  - a. In-Vessel Digestion Facility Plan, 14 CCR, 17896.14 & 18221.5.1
  - b. Odor Minimization Plan, 14 CCR, 17896.31
6. Provide descriptions on how the operations will comply with state minimum standards specified in sections 17896.17 through 17896.61 as required per the In-Vessel Digestion Facility Plan (Section 18221.5.1 (h)).
7. As the LEA has documented numerous AOC's regarding odor, the operator will be required to submit with the Registration Permit application an Odor Best Management Practice Feasibility Report specified in Title 14, Section 17863.4.1.
8. A Registration Permit Fee must be submitted with the Registration Permit application.

The corrective actions above must be completed within the specified timesframes and failure to comply with these requiriements will result in a Cease and Desist Order pursuant to Public Resources Code (PRC), Section 44002. The LEA will assess ZWE for cost recovery for all additional enforcement action per PRC, 45000. Monterey County's hourly rate is \$152.00.

Regional Water Quality Board and the Monterey Bay Air Resources District will receive copies of this notification pursuant to Public Resources Code, Section 45019.

Please contact me directly so we might arrange a meeting to discuss the described options for returning to compliance.

Thank you,



Maria Ferdin  
Supervising Environmental Health Specialist  
LEA- Solid Waste Services

Attachments: Inspection Reports- September 2018, October 2018, December 2018

CC:

John Ramirez, MCHD, EHB  
Ric Encarnacion, MCHD, EHB  
Annie Michaels, Assitant District Attorney  
Lisa McAlpine, CalRecycle  
Eric Kiruja, CalRecycle  
Jon Whitehill, CalRecycle  
Eric Herbert, Zero Waste Enerygy  
Tim Flanagan, Monterey Regional Waste Management District  
Guy Petraborg, Monterey Regional Waste Management District  
David Ramirez, Monterey Regional Waste Management District  
Dan Niles, Regional Water Quality Control Board  
Theresa Sewell, Monterey Bay Air Resources District