

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Ebner Furnaces, Inc.	:	<u>Director's Final Findings</u>
224 Quadral Drive	:	<u>and Orders</u>
Wadsworth, Ohio 44281	:	
RESPONDENT	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Ebner Furnaces, Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the facility shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a coating facility located at 224 Quadral Drive, Wadsworth (Medina County), Ohio. This facility is identified by Ohio EPA as facility ID 1652100070 and operates two coating lines. One coating line paints miscellaneous metal parts while the other line coats refractory ceramic fibers; the lines are identified by Ohio EPA as "emissions units K001 and R001," respectively. Pursuant to Ohio Administrative Code ("OAC") Chapter 3745-31, on December 15, 1999, Ohio EPA granted Respondent a synthetic minor Permit to Install ("PTI") [number 16-1790] to modify the two coating lines.

2. Each emissions unit emits, among other air pollutants, organic compounds ("OC") and "volatile organic compounds" ("VOC"), which are defined as "air pollutants" or "air contaminants" in Ohio Administrative Code ("OAC") Rule 3745-15-01(C). Additionally, the emissions units are "air contaminant sources" as defined in OAC Rule 3745-31-01(D).

3. OAC Rule 3745-31-02(A)(2) allows, in part, the owner or operator of any air contaminant source to voluntarily request a PTI from Ohio EPA that would lower the allowable emissions from the air contaminant source. OAC Rule 3745-31-01(E) defines "allowable emissions," in part, as the emission rate of an air contaminant source calculated using the maximum rated capacity to emit, unless federally enforceable limitations restrict the operation rate or hours of operation. This type of permit is referred to as a "synthetic minor permit."

4. OAC Rule 3745-31-06(D) states, in part, that the Director of Ohio EPA may impose special terms and conditions as are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment.

5. ORC § 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

6. ORC § 3704.05(G) prohibits any person from violating any order, rule or determination of the Director of Ohio EPA issued, adopted, or made under R.C. Chapter 3704.

7. On [April 14, 1998](#), Respondent submitted a PTI application to modify, i.e., increase allowable mass emission limitations, for the coating lines identified in Finding 1. The facility's potential to emit ("PTE") of a single hazardous air pollutant ("HAP") was estimated to be greater than the ten tons per year threshold; therefore, this classified Respondent's facility as a Title V major source as specified in OAC Rule 3745-77-01(W)(1)(a). To preclude the applicability of the requirements of the Title V program, Respondent requested that self-imposed federally enforceable emission limitations be placed in the PTI to lower the facility's PTE. However, the facility's actual emissions of the single HAP were less than 20 percent of the ten tons per year threshold; therefore, under Ohio EPA policy the facility is presumed to have an inherent physical limitation preventing exceedance of the threshold and is not subject to the Title V rules.

8. Pursuant to OAC Rule 3745-31-06(D), Ohio EPA issued a synthetic minor PTI on December 15, 1999, with the following partial listing of special terms and conditions to assure compliance with applicable rules and laws:

- a. An emission limitation requiring the entire facility not to emit more than seven tons of a single HAP in any rolling, 12-month period.
- b. A requirement for emissions unit K001 to not employ any coating, except for Red Hot Aluminum, with a VOC content greater than 3.5

- pounds per gallon.
- c. A requirement for emissions unit K001 to not use more than three gallons of coatings on each day that Red Hot Aluminum coating is used.
  - d. Requirements to maintain records of the following:
    - total individual HAP emitted from the use of all coatings and cleanup materials, in pounds or tons per month and in pounds or tons per rolling, 12-month period;
    - VOC emission rates, in pounds per day, emitted from emissions unit K001; and
    - rolling, 12-month summation of the coating usage and OC emission rates for emissions unit R001.
  - e. A requirement to submit written notifications when the records demonstrated that emissions unit K001:
    - employed more than three gallons of coatings on days when Red Hot Aluminum coating was used. The notification is required to be submitted to the appropriate Ohio EPA District Office or local air agency within 45 days of the exceedance.
    - employed a coating, other than Red Hot Aluminum, with a VOC content in excess of 3.5 pounds per gallon. The notification is required to be submitted to the appropriate Ohio EPA District Office or local air agency within 30 days of the deviation.

9. Akron Regional Air Quality Management District ("ARAQMD") inspected the facility on November 27, 2001, and discovered that Respondent was not maintaining records of the rolling, 12-month summation of coating usage and OC emission rates for emissions unit R001; the daily VOC emission rate for K001, and the total individual HAP emitted by both emissions units R001 and K001. Failure to maintain these records is a violation of the PTI's special terms and conditions and in violation of ORC § 3704.05(C). The violation occurred from the issuance date of PTI 16-1790 (December 15, 1999) until Respondent submitted the required records to ARAQMD (December 12, 2001). This inspection also revealed that Respondent had employed coatings, other than Red Hot Aluminum, with a VOC content in excess of 3.5 pounds per gallon. Further, Respondent had exceeded the coating usage limitation of three gallons per day on the days Red Hot Aluminum was used. The usage of coatings with a VOC content greater than 3.5 pounds per gallon and the failure to comply with the coating usage limitation are violations of the PTI's special terms and conditions and in violation of ORC § 3704.05(C). The specific days these violations occurred are listed in Attachment 1 of these Orders.

10. On December 7, 2001, Respondent sent an electronic mail to ARAQMD that contained revised paint usage logs.

11. On December 12, 2001, ARAQMD sent Respondent a Notice of Violation ("NOV") for the violations mentioned in Finding 9. Additionally, the NOV informed Respondent

that it had failed to submit several deviation (excursion) reports required by the PTI for exceeding the 3 gallon coating usage limitation and for using coatings with a VOC content greater than 3.5 pounds per gallon. The violations for failure to submit the deviation reports occurred thirty days from the first deviation (i.e., March 26, 2000) until Respondent submitted the required reports on December 19, 2001. The NOV requested Respondent to submit a plan to bring the facility into compliance.

12. On December 19, 2001, Respondent replied to the December 12, 2001 NOV. The response included all the required records specified in Respondent's PTI for the previous two years and contained deviation reports for the times emissions unit K001 exceeded either the coating usage limitation or used a coating not authorized by the PTI. Additionally, the Respondent proposed the following to correct the air quality problems associated with the facility:

- to dispose of all paints other than Red Hot Aluminum, by December 21, 2001, with a VOC content greater than 3.5 pounds per gallon;
- to eliminate the use of Red Hot Aluminum coating by January 15, 2002;
- to appoint a person with technical experience from Respondent's Engineering Department to be responsible for maintaining records, looking for deviations and submitting the reports required by the PTI;
- to obtain new solvents and cleaners, by January 15, 2002, with lower VOC contents; and
- to apply for a new permit, by January 31, 2002, proposing the use of only compliant materials.

13. On December 21, 2001, Respondent replaced all coatings with a VOC content greater than 3.5 pounds per gallon with lower VOC coatings, including Red Hot Aluminum coating.

14. On January 8, 2002, Respondent appointed a technical person to assure compliance with the regulatory requirements.

15. In February 2002, Respondent replaced one of the cleanup materials with a lower VOC content material. Also, on February 28, 2002, Ohio EPA issued a new PTI to Respondent authorizing the use of the new materials and coatings.

16. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and the benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Order:

Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of ten thousand dollars (\$10,000). Payment shall be made by official check made payable to "Treasurer, State of Ohio." The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and site.

A copy of the official check shall be submitted to James A. Orlemann, Manager, Engineering Section, or his successor, Division of Air Pollution Control, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's and the Ohio Department of Natural Resources' receipt of all of the official checks required by Section V of these Orders on or by the dates specified.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the operations of Respondent's facility.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to the Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District  
146 South High Street, Room 904  
Akron, Ohio 44308  
Attention: Lynn Malcolm

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
122 South Front Street, P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Thomas Kalman

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in [Section XII](#) of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such an appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless said Orders are stayed, vacated, or modified.

## **XIII. EFFECTIVE DATE**

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**XIV. SIGNATORY AUTHORITY**

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

**IT IS SO ORDERED AND AGREED:**

Ohio Environmental Protection Agency

\_\_\_\_\_  
Christopher Jones  
Director

\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Ebner Furnaces, Inc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

**ATTACHMENT 1: DAYS OF EMISSION VIOLATIONS**

<b>Violation</b>	<b>Year 2000</b>	<b>Year 2001</b>
failure to use all coatings with a VOC content of less than 3.5 pounds per gallon, except Red Hot Aluminum coating	February: 25, 28, 29 March: 14, 15, 16 April: 3, 4, 7, 12, 19, 24, 25 May: 4, 10, 24, 25 June: 27, 28, 29 July: 6, 11, 12, 17, 21, 24, 27, 28 August: 9, 10, 14, 15, 16, 17, 22, 23, 24, 25, 28, 29, 30 September: 2, 5, 6, 7, 11, 12, 13, 18, 19, 20, 21, 22, 25, 26, 27 November: 6, 13, 16, 17, 20, 21, 22, 28, 30 December: 6, 7, 14, 18, 19, 20, 21	January: 3 February: 13, 19 April: 23, 25 May: 9, 10 June: 4, 5, 13 July: 23, 25 October: 31
exceeding the 3 gallons per day coating usage limitation on days using Red Hot Aluminum coating	August: 10	May: 30 June: 14 September: 24 October: 4