

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Cleveland Laminating Corporation : Director's Final Findings
2909 East 79th Street : and Orders
Cleveland, Ohio 44104 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Cleveland Laminating Corporation ("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 Respondent's facility (as hereinafter identified) 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 regulations promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a manufacturing company with its principal place of business at 2909 East 79th Street, Cleveland, Ohio. At this facility Respondent manufactures custom-designed products composed of thin gauge foils, films, fabrics, and various other substrates. The facility is a Title V source, as defined in Ohio Administrative Code ("OAC") Rule 3745-77-01(LL), and is subject to the requirements of ORC Chapter 3704 and OAC Chapter 3745-77.

2. OAC Rule 3745-77-02(A) states, in part, that the owner or operator of a Title V source shall not operate such source after the date that a timely and complete Title V permit application is required, unless such application has been timely submitted or the source is in compliance with a Title V permit.

3. OAC Rule 3745-77-04(E) requires that a Title V permit renewal application be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit.

4. OAC Rule 3745-77-06(A) states, in part, that if the owner or operator of Title V source submits a timely and complete application for permit renewal, the failure to have a Title V permit is not a violation of this Chapter until the Director takes final action on the application.

5. ORC § 3704.05(C) states, in part, that no person who is a holder of a permit issued under ORC § 3704.03(F) or (G) shall violate any of its terms or conditions.

6. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704.

7. ORC § 3704.05(J)(2) states, in part, that, no person shall violate any filing requirement of the Title V permit program.

8. ORC § 3704.05(K) states, in part, that no person shall operate a source that is required to obtain a Title V permit unless a Title V permit has been issued authorizing operation of the source or unless a complete and timely application for the issuance, renewal, or modification of a Title V permit for the source has been submitted to the Director.

9. ORC §§ 3704.06(C) provides, in part, that any person violating ORC § 3704.05 shall pay a civil penalty of not more than \$25,000 for each day of each violation.

10. On July 30, 1999, Ohio EPA issued a final Title V permit for Respondent's facility (Ohio EPA facility identification number 13-18-00-0242). The permit's expiration date of July 30, 2004, was given in the Final Issuance cover page of the permit, as well as a statement that Title V permit renewal applications are to be filed no earlier than eighteen months and no later than six months prior to the expiration of any Title V permit.

11. In a letter dated June 11, 2003, Ohio EPA sent a notice of the Title V permit expiration to Respondent. This letter stated that Respondent's Title V permit was to expire on July 30, 2004, and provided a description of the renewal application requirements and procedures.

12. Respondent failed to submit an application to renew its Title V permit to Ohio EPA six months prior to the permit expiration date (i.e., January 30, 2004), in violation of OAC

Rule 3745-77-04(E) and ORC § 3704.05(G) and (J)(2). Thus, Respondent lost the application shield protection provided by OAC Rule 3745-77-06(A).

13. On May 11, 2004, Cleveland Division of Air Quality ("CDAQ"), Ohio EPA's representative in Cuyahoga County, issued a notice of violation ("NOV") to Respondent, citing it with violations of OAC Rules 3745-77-04(E), for failing to submit a timely and complete application for renewal of its Title V permit, and 3745-77-02(A), for operating a Title V source after the expiration date of its Title V permit without possessing a Title V permit or submitting a timely filed and complete application.

14. Respondent's Title V permit expired on July 30, 2004. Respondent continued to operate a Title V source without a Title V permit or a timely filed and complete renewal application, in violation of OAC Rule 3745-77-02(A) and ORC § 3704.05(G) and (K).

15. Respondent submitted a complete synthetic minor permit-to-install ("PTI") application to CDAQ on January 27, 2004. The application requested limitations that would lower the facility's potential to emit to below the Title V applicability threshold levels. However, Respondent remained subject to the requirements of the Title V program until a final synthetic minor PTI was issued.

16. On October 12, 2004, Ohio EPA issued a synthetic minor PTI with federally enforceable limitations that lowered Respondent's potential to emit to below the major source classification; therefore, exempting Respondent from the requirements of the Title V program.

17. 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 their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of nine thousand dollars (\$9,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for nine thousand dollars (\$9,000) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration

P.O. Box 1049
Columbus, Ohio 43216-1049

2. A copy of the above check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V of these Orders.

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 operation 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 Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. 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:

Department of Public Health & Welfare
Division of the Environment
1925 St. Clair Street
Cleveland, Ohio 44114
Attention: Michael Krzywicki

and to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Thomas Kalman, Manager, Enforcement Section

or to such persons and addresses as may hereinafter be otherwise specified in writing by Ohio EPA.

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 conditions, 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 the 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 appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these 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

Joseph P. Koncelik
Director

Date

IT IS SO AGREED:

Cleveland Laminating Corporation

By

Date

Printed or Typed Name

**Director's Final Findings and Orders
Cleveland Laminating Corporation (Case #2383)
Page 7 of 6**

Title