OHIO E.P.A.
DEC 27 2005
ENTERED DIRECTOR'S JOURNA

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Whirlpool Corporation 4901 North Main Street Findlay, Ohio 45840	: : :	Director's Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Whirlpool 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 the Respondent or of the 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 manufacturer and marketer of major home appliances, with approximately 50 manufacturing and technology research centers worldwide. Respondent employs over 68,000 employees worldwide. Respondent operates a production facility located at 4901 North Main Street, in Findlay, Ohio for the production of dishwashers, that 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.

I certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency
By Amy Jackson Date 12-27-05

2. At the facility, Respondent operates emissions unit ("EU") K007 (East Dishrack Powder Coating Line) and EU K008 (West Dishrack Powder Coating Line). EUs K007 and K008 employ separate cyclonic wet scrubbers but share a thermal incinerator. These EUs each constitute an "air contaminant source" as defined in OAC Rule 3745-31-01(I).

3. On April 17, 2002, Respondent was issued a Title V permit by Ohio EPA (Title V permit). Respondent filed a Notice of Appeal regarding the Title V permit on May 17, 2002. Ohio EPA and Respondent reached agreement on the terms of a modified permit in October 2002. That reopener permit has not yet been issued as a final permit.

4. Subsequent to the appeal it was discovered that EUs K007 and K008 were in violation of the Title V permit.

5. By letter dated August 14, 2002, Respondent informed Ohio EPA, Northwest District Office ("NWDO") that it was exploring alternative formulations for the solvent used in EUs K007 and K008 in order to reduce the amount of hazardous air pollutants ("HAPs"), specifically methyl ethyl ketone ("MEK") emissions, and to comply with the Title V permit.

6. By letter dated December 30, 2002, Respondent informed NWDO that it had used acetone in place of MEK from February 2002 through June 2002, and had ceased using MEK as a solvent and was using acetone as of October 1, 2002.

7. By letter dated December 13, 2004, NWDO issued a Notice of Violation ("NOV") to the Respondent for the violations discovered as a result of an inspection of Respondent's facility on November 23, 2004, and review of Respondent's files.

8. From July 1, 2002 to October 1, 2002, Respondent failed to comply with the volatile organic compound ("VOC") emission limitation of 0.9 kilogram ("kg") per liter of applied coating solids, as a monthly, volume-weighted average, for EUs K007 and K008, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2). The violations were corrected when Respondent switched from MEK to acetone in the adhesion enhancer.

9. From July 1, 2002 to October 1, 2002, Respondent failed to submit one quarterly report on VOC emission limitation (0.9 kg/liter) exceedances for EUs K007 and K008, in violation of the general terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2).

10. From April 17, 2002 to January 18, 2005, Respondent failed to monitor the pressure drop across the scrubbers for EUs K007 and K008, in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2).

11. From January 19, 1990 to July 1995, Respondent failed to comply with the minimum VOC emission control efficiency limitation of 80.2 percent for the control equipment serving EUs K007 and K008, in violation of the terms and conditions of PTI #03-

3658 and ORC § 3704.05(C). The tested VOC emission control efficiency was 42 percent. A thermal oxidizer was installed in July 1995 to supplement the duct burners.

12. From March 31, 1993 to July 1995, Respondent failed to comply with the VOC emission limitation of 4.5 pounds per gallon of coating solids, as a daily, volume-weighted average, for primer enhancer, for EUs K007 and K008, in violation of OAC Rule 3745-21-09(K), the terms and conditions of the Title V permit, and ORC § 3704.05(C) and (J)(2). The violations were corrected when Respondent installed the new thermal oxidizer in July 1995.

13. By letter dated January 18, 2005, Respondent submitted a response to the December 13, 2004 NOV. The response included the documentation that NWDO had previously requested. Respondent has claimed, in subsequent discussions with NWDO, that all records needed to show compliance with 40 CFR 60.463 were being kept.

14. 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. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of thirty three thousand six hundred dollars ($33,600) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of twenty six thousand eight hundred eighty dollars ($26,880) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $26,880. 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

A copy of the 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

2. In lieu of paying the remaining six thousand seven hundred twenty dollars ($6,720) of the civil penalty, Respondent shall fund the supplemental environmental project ("SEP") identified in Order 3. In the event Respondent defaults or otherwise fails to complete the project as specified in Order 3, the $6,720 for the project in Order 3 shall immediately become due and payable to Ohio EPA. Such payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

3. Respondent shall fund a SEP by making a contribution in the amount of $6,720 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Respondent shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for $6,720. The official check shall specify that such monies are to be deposited into Fund 5CD established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of this check also shall be sent to James A. Orlemann, or his successor, at the above-stated address.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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 the 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:

Ohio Environmental Protection Agency
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Don Waltermeyer

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 hereafter 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

12/22/05
Date

IT IS SO AGREED:

Whirlpool Corporation

Signature

12/20/2005
Date

Robert J. Karwowski
Printed or Typed Name

Director, NAR Environmental, Health & Safety Programs
Title