BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC 27 2006
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Epco Extrusion Painting Co. 413 McClurg Road Boardman, Ohio 44512	: : :	Director's Final Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 12-27-06

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Epco Extrusion Painting Co. ("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 owns and operates a manufacturing facility located at 413 McClurg Road, Boardman Township, Mahoning County, Ohio. At this facility, Respondent operates one coating line (identified by Ohio EPA as "emissions unit K001") which coats aluminum extrusions for mainly residential use such as lighting tracks, picture frames, camper frames, and porch rails. Emissions unit K001 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. Respondent is a subsidiary of Aerolite Extrusion Company with office located at 4605 Lake Park Road, Youngstown, Ohio.

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 an application has been 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. Section A.12.d of Part I of any Title V permit requires the owner or operator of a facility that is subject to the Title V permit program to submit an annual compliance certification by April 30 of each year during the permit term.

6. Section A.12.a of Part I of any Title V permit requires the owner or operator of a facility that is subject to the Title V permit program, for any document (including reports) that was required by a Title V permit, to submit a certification by a responsible official that, based on information and belief formed after reasonable inquiry, the statements in documents are true, accurate and complete.

7. OAC Rule 3745-78-02(A) requires an owner or operator of a facility that is subject to the Title V permit program to submit annual fee emission reports that identify the actual emissions of specified air pollutants and to pay fees for such emissions upon receipt of invoices from Ohio EPA. The first fee emission report was due by June 15, 1994 for calendar year 1993, and subsequent reports were due by April 15 of each year thereafter.

8. 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.

9. 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.

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

11. 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.

12. 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.

13. Section A.1.c.iii of Part I of the Respondent's Title V permit requires Respondent to submit semiannual reports for deviations from any monitoring, record-keeping, and reporting requirements by January 31 and July 31 of each year for the previous semiannual period. Similarly, Section A.1.c.ii of Part I of the Title V permit requires Respondent to submit quarterly reports for deviations from any emission limitations, operational restrictions, and control device operating parameter limitations by January 31, April 30, July 31, and October 31 of each year for the previous calendar quarter.

14. On June 5, 1997, the Ohio EPA, Northeast District Office ("NEDO") sent Respondent a letter to notify Respondent of the failure to timely submit a Title V fee emission report ("FER") for the calendar year 1996. NEDO requested that the Title V FER to be submitted within two weeks of receipt of the letter. Respondent failed to timely submit the required FER, in violation of OAC Rule 3745-78-02(A) and ORC § 3704.05(C) and (J)(2).

15. On June 26, 1997, Respondent submitted the 1996 FER to Ohio EPA.

16. On April 29, 1998, NEDO sent a reminder to Respondent regarding the failure to timely submit a Title V FER for the calendar year 1997. Respondent failed to timely submit the required FER, in violation of OAC Rule 3745-78-02(A) and ORC § 3704.05(C) and (J)(2).

17. On May 10, 1998, Respondent submitted the 1997 FER to Ohio EPA.

18. On August 6, 1998, Ohio EPA issued a final Title V permit for Respondent's facility (Ohio EPA facility identification number 02-50-11-0856). The permit's expiration date of August 6, 2003, 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.

19. On May 12, 2000, NEDO sent a letter to inform Respondent of the failure to file a 1999 Title V compliance certification by April 30, 2000. Respondent failed to timely submit the annual compliance certification for 1999 as required by its Title V permit, in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2).

20. On May 15, 2000, Respondent submitted to NEDO the 1999 Title V compliance certification.

21. On May 29, 2001, NEDO sent a letter to inform Respondent of the failure to file a Title V compliance certification and a Title V FER for calendar year 2000. As a result, Respondent was in violation of OAC Rule 3745-78-02(A), the terms and conditions of the Title V permit, and ORC § 3704.05(C) and (J)(2).

22. On June 4, 2001, Respondent submitted the 2000 FER and the Title V compliance certification for 2000 to Ohio EPA.

23. On June 18, 2002, NEDO sent a warning letter by certified mail to Respondent for its failure to submit a Title V compliance certification and a Title V FER for the calendar year 2001, in violation of OAC Rule 3745-78-02(A), the terms and conditions of the Title V permit, and ORC § 3704.05(C) and (J)(2). NEDO requested Respondent to submit these items within thirty (30) days from receipt of the letter.

24. On June 28, 2002, Respondent submitted the 2001 Title V compliance certification to Ohio EPA; however, this certification was considered incomplete by NEDO since it did not address each term of the Title V permit and was not signed by a responsible official.

25. On July 16, 2002, Ohio EPA, Central Office issued a Notice of Violation ("NOV") to Respondent for its failure to submit the 2001 Title V FER. Respondent was in violation of OAC Rule 3745-78-02(A), and ORC § 3704.05(C) and (J)(2). In this NOV, Ohio EPA requested Respondent to respond within thirty (30) days from receipt of the letter.

26. On July 30, 2002, Respondent submitted a 2001 Title V FER to Ohio EPA.

27. On August 20, 2002, NEDO sent a warning letter by certified mail to Respondent for its failure to submit a complete 2001 compliance certification. As a result, Respondent was in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2). Respondent was given thirty (30) days to respond to NEDO.

28. In a letter dated September 6, 2002, Ohio EPA sent a notice of Title V permit expiration to Respondent. This letter stated that Respondent's Title V permit was to expire on August 6, 2003, and provided a description of the renewal application requirements and procedures.

29. On September 20 and October 4, 2002, Respondent resubmitted the Title V compliance certification for the calendar year 2001; however, this certification was still considered incomplete by NEDO since not all of the terms and conditions of the Title V permit were addressed.

30. On October 25, 2002, NEDO sent Respondent a letter to remind it of the incomplete 2001 Title V compliance certification and the missing 2001 and 2002 semiannual and quarterly deviation reports. Respondent was in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2). In this letter, Respondent was given thirty (30) days to respond.

31. On October 25, 2002, Respondent submitted the missing 2001 and 2002 semiannual and quarterly deviation reports that were requested by NEDO in its October 25, 2002 letter.

32. On January 9, 2003, Respondent submitted to Ohio EPA a complete 2001 Title V compliance certification.

33. On May 16, 2003, NEDO sent a NOV to Respondent for its failure to submit a 2002 Title V FER. Respondent was in violation of OAC Rule 3745-78-02(A), and ORC § 3704.05(C) and (J)(2). In this NOV, NEDO requested Respondent to submit the 2002 Title V FER within fourteen (14) days of receipt of the NOV.

34. On May 19, 2003, Respondent submitted a 2002 Title V compliance certification to NEDO.

35. On June 2, 2003, Respondent submitted the 2002 Title V FER to Ohio EPA.

36. On June 17, 2003, NEDO sent Respondent an e-mail to inform it that the 2002 Title V compliance certification that was submitted on May 19, 2003 was incomplete since not all the terms and conditions of the Title V permit were addressed. NEDO requested Respondent to resubmit the 2002 Title V compliance certification within seven (7) days from receipt of the e-mail.

37. Respondent failed to submit an application to renew its Title V permit to Ohio EPA at least six months prior to the permit expiration date (i.e., by February 7, 2003), in violation of OAC Rule 3745-77-04(E) and ORC § 3704.05(G) and (J)(2). Therefore, Respondent lost the application shield provided by OAC Rule 3745-77-06(A).

38. On June 19, 2003, Respondent submitted a complete Title V permit renewal application to Ohio EPA.

39. After its Title V permit expired on August 6, 2003, Respondent operated its Title V source without a Title V permit or a timely filed Title V permit renewal application, in violation of OAC Rule 3745-77-02(A) and ORC § 3704.05(G) and (K).

40. On June 23, 2003, Respondent resubmitted the 2002 Title V compliance certification to NEDO; however, this certification was considered incomplete for not fully addressing all the terms and conditions of the Title V permit.

41. On July 14, 2003, NEDO sent a warning letter by certified mail to Respondent for its failure to submit a complete 2002 Title V compliance certification. Respondent was in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2). NEDO requested Respondent to respond within fourteen (14) days following the receipt of the letter.

42. On July 28, 2003, Respondent submitted a complete 2002 Title V compliance certification.

43. On March 25, 2004, NEDO issued a NOV to Respondent for its failure to submit semiannual and quarterly deviation reports for the calendar year 2003. Respondent was in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2).

44. On April 8, 2004, Respondent submitted the semiannual and quarterly deviation reports for the calendar year 2003.

45. On June 9, 2004, NEDO sent a NOV to Respondent for its failure to submit a 2003 Title V FER. Respondent was in violation of OAC Rule 3745-78-02(A), and ORC § 3704.05(C) and (J)(2). In this NOV, NEDO requested Respondent to submit the 2003 Title V FER within fourteen (14) days of receipt of the NOV.

46. On June 11, 2004, Ohio EPA issued a Notice of Violation to Respondent, citing it with a violation of OAC Rule 3745-77-04(E), for failing to submit a timely and complete application for renewal of its Title V permit.

47. On June 22, 2004, Respondent submitted the 2003 Title V FER to Ohio EPA.

48. On May 9, 2005, Respondent submitted a complete 2004 Title V compliance certification to NEDO. Since the 2004 Title V compliance certification was not timely submitted, Respondent was in violation of the terms and conditions of the Title V permit and ORC § 3704.05(C) and (J)(2).

49. On August 10, 2005, the renewal Title V permit for Respondent's facility was issued by Ohio EPA.

50. 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 forty-five thousand and five hundred dollars ($45,500) in settlement of Ohio EPA's claims for civil penalties. Respondent shall pay Ohio EPA the amount of thirty-six thousand and four hundred dollars ($36,400) of the total penalty amount. In lieu of paying the remaining nine thousand and one hundred dollars ($9,100) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $9,100 to Ohio EPA's Clean Diesel School Bus Fund (Fund

5CD). Respondent shall pay the thirty-six thousand and four hundred dollars ($36,400) to Ohio EPA and the nine thousand and one hundred dollars ($9,100) to Ohio EPA's Clean Diesel School Bus Program Fund pursuant to the following schedules:

a. Payments to the Clean Diesel School Bus Program Fund (5CD):

$9,100 in two (2) equal payments of $4,550, due within one (1) month and four (4) months after the effective date of these Orders.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall specify that such monies are to be deposited into Fund 5CD established by Ohio EPA for the Clean Diesel School Bus Program Fund. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each 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

b. Payments to Ohio EPA:

$36,400 in eight (8) equal quarterly installments of $4,550 within twenty-eight (28) months after the effective date of these Orders, beginning within seven (7) months after the effective date of these Orders, and each subsequent payment due within three (3) months thereafter.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." Each official check shall be submitted to Brenda Case, or her successor, at the above-stated address, together with a letter identifying the Respondent. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the above-stated address.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks 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 mutual 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 EPA, Northeast District Office
2110 Aurora Road
Twinsburg, Ohio 44087-1969
Attention: Jana Gannon

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 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

Joseph P. Koncelik
Director

12-11-06
Date

IT IS SO AGREED:

Epco Extrusion Painting Co.

Signature

Dec 4, 2006
Date

THOMAS E. HUTCH, JR
Printed or Typed Name

President
Title