OHIO E.P.A.
FEB 25 2000
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BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Diamond Manufacturing, Inc.	:	**Director's Final Findings**
300 Commerce Way	:	**and Orders**
Upper Sandusky, Ohio 43351	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Diamond Manufacturing, 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 Respondent or of the Facility (as hereinafter defined) 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 makes the following findings:

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: 2-25-08

1. Director's Final Findings and Orders were issued to Respondent on December 31, 2007.

2. Discussions between Respondent and Ohio EPA revealed the need to modify the Director's Final Findings and Orders to include a new civil penalty payment schedule and the requirement that Respondent perform a pollution prevention study.

3. 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 benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

All terms and conditions contained in the December 31, 2007 Director's Final Findings and Orders remain valid and in effect with the exception of Section V., paragraphs, 1, 2, and 3 which are superseded by the following:

1. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of fifty-four thousand dollars ($54,000) in settlement of Ohio EPA's claims for civil penalties. Respondent shall pay Ohio EPA the amount of thirty-three thousand two hundred dollars ($33,200) of the total penalty amount in accordance with the following schedule: $11,200 within 180 days of the effective date of these Orders and $22,000 within 360 days of the effective date of these Orders. The payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, Fiscal Specialist, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of payment to Ohio EPA of the remaining twenty thousand eight hundred dollars ($20,800) of the civil penalty, Respondent shall fund the supplemental environmental projects ("SEPs") identified in Orders 3 and 5. Of the $20,800, $10,800 shall be used to fund the project in Order 5 of these Orders and $10,000 shall be used to fund the project in Order 3 of these Orders. In the event Respondent defaults or otherwise fails to complete any of the projects as specified in Orders 3 and 5, the $10,800 for the project in Order 5 and/or the $10,000 for the project in Order 3, whichever is (are) applicable, 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. As outlined below, and with reference to the chapters described in Ohio EPA's 1993 " Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" ("the Manual"), Respondent shall conduct a pollution prevention study ("P2 Study") at the Facility as a SEP in lieu of paying $10,000 of the total civil penalty. The P2 Study is an assessment of selected Facility processes to identify and evaluate specific source reduction and environmentally sound recycling opportunities.

a. Within ninety (90) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:

   i. a list of the members of a cross-functional team for the P2 Study, including the name of a designated team leader;

   ii. an identification of the processes selected for study and the methods used to select the processes; and

   iii. a description of the processes being studied, including types and quantities of raw materials used, waste generated (i.e., air emissions, hazardous waste, solid waste, and wastewater), and the intermediate or final products.

   The above items shall be completed following the guidance provided in Chapters 8 and 9 of the Manual.

b. Within one hundred eighty (180) days after the effective date of these Orders, Respondent shall submit a detailed narrative report to Ohio EPA for

review and approval containing the following:

i. an analysis of the process-related factors contributing to waste generation;

ii. a description of the specific pollution prevention opportunities identified; and

iii. a discussion of the approach used in screening and prioritizing pollution prevention opportunities for future implementation.

The above items shall be completed following the guidance provided in Chapters 11 and 12 of the Manual.

c. Within two hundred seventy (270) days after the effective date of these Orders, Respondent shall submit a detailed narrative final report to Ohio EPA for review and approval containing the following:

i. an evaluation of the cost considerations and feasibility analysis of the identified pollution prevention opportunities;

ii. a discussion of those projects that have been eliminated as well as those that have been implemented, planned for implementation, or under consideration for possible implementation; and

iii. a description of the other items bulleted in Table 7 of Chapter 15 of the Manual.

The above items shall be completed following the guidance provided in Chapters 13, 14 and 15 of the Manual.

d. Within three hundred and thirty (330) days after the effective date of these Orders, Respondent shall submit an approvable detailed narrative final report to Ohio EPA, unless the report submitted to Ohio EPA pursuant to the above paragraph c is approved by Ohio EPA.

Ohio EPA shall provide Respondent with its comments and an indication of approval or disapproval of the reports submitted pursuant to this Order in a timely manner.

4. Within thirty (30) days of the completion and approval by Ohio EPA of the

project identified in Order 3, Respondent shall submit documentation to Ohio EPA of the total cost of the P2 Study. If the total cost of the P2 Study is less than $10,000, Respondent shall submit, along with the final report identified in Order 3 and in the manner described in Order 2, an official check to Ohio EPA for the difference in cost between $10,000 and the cost of the P2 Study.

5. Respondent shall fund a SEP by making a contribution in the amount of ten thousand eight hundred dollars ($10,800) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). 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 $10,800. The official check shall specify that such monies are to be deposited into Fund 5CD0 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 and Fund 5CD0, 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 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 Respondent's operation of the 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:

Ohio EPA
Northwest District Office
Division of Air Pollution Control
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Don Waltermeyer

and to:

Ohio EPA
Lazarus Government Center
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

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 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 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

Chris Korleski
Director

Date 2/20/08

IT IS SO AGREED:

Diamond Manufacturing, Inc.

Signature

Date 1/29/08

Stephanie Kutzls
Printed or Typed Name

President
Title