

DEC 21 2009

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

El Ceramics, LLC.
2600 Commerce Blvd.
Cincinnati, Ohio 45241

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:
:

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 El Ceramics, LLC. ("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 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:

1. Respondent owns and operates a facility (Facility ID 1431404130) located at 2600 Commerce Blvd., Cincinnati, Hamilton County, Ohio ("Facility"). At the Facility, Respondent manufactures ceramic parts that are used in the steel industry.

2. Hamilton County Department of Environmental Services ("HCDOES") is a contractual agent for Ohio EPA in Hamilton County for the administration of Ohio's air pollution rules and laws.

3. On November 19, 2002, Ohio EPA issued permit-to-install ("PTI") 14-05345 for a mixing process; blending, pressing, glazing and curing process; and a kiln, which are identified by Ohio EPA as emissions units ("EUs") P001, P002 and P003,

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: 12.21.09

respectively. On May 27, 2008, Ohio EPA issued permits-to-operate ("PTOs") for EUs P001, P002 and P003. The terms and conditions of PTI 14-05345 and the PTOs contain applicable emission limitations and operational control and reporting requirements for EUs P001, P002 and P003. EU P001 is controlled by a thermal oxidizer to control organic compound ("OC") emissions. EU P002 is controlled by a fabric filter to control particulate emissions and a thermal oxidizer to control OC emissions. EU P003 is controlled by a thermal oxidizer to control OC emissions. The emissions units listed in PTI 14-05345 and the PTOs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

4. On June 21, 2005, Ohio EPA issued PTI 14-05702 for kiln #2 and curing oven #2, which are identified by Ohio EPA as EUs P004 and P005. On May 19, 2008, Ohio EPA issued PTOs for EUs P004 and P005. The terms and conditions of PTI 14-05702 and the PTOs contain applicable emission limitations and operational control and reporting requirements for EUs P004 and P005. EUs P004 and P005 are controlled by thermal oxidizers to control OC emissions. EU P005 is controlled by the same thermal oxidizer as EU P002. The emissions units listed in PTI 14-05702 and the PTOs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

5. On March 11, 2008, HCDOES conducted a compliance inspection at the Facility. As a result of this inspection, HCDOES determined that Respondent had, *inter alia*:

a. For EUs P001, P002, P003, P004 and P005, from April 30, 2005, (the date that the 1st quarterly deviation report for 2005 was due) until March 11, 2008, a total of 1046 days, Respondent failed to submit the annual emissions reports and the quarterly deviation reports for the years 2005, 2006 and 2007, in violation of the terms and conditions of PTI 14-05345, PTI 14-05702 and ORC § 3704.05(C). Respondent provided the annual emissions reports and the quarterly deviation reports for the years 2005, 2006 and 2007 to HCDOES at the time of the inspection;

b. For EU P001, from November 19, 2002 until March 24, 2008, a total of 278 days, Respondent failed to record the pressure drop across the fabric filter on a weekly basis, in violation of Section C.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

c. For EU P001, from November 19, 2002 until March 11, 2008, a total of 1938 days, Respondent failed to operate and maintain a continuous temperature monitor and recorder for the thermal oxidizer, in violation of Section C.2. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C). At the time of the inspection, Respondent made the necessary adjustments to ensure the monitor and recorder were continuously running;

d. For EU P002, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P002 is in operation, shall not be less than 1450 degrees Fahrenheit. For 55 percent of the operating time between November 19, 2002 and March 11, 2008, Respondent failed to keep the average combustion temperature of the thermal oxidizer at no less than 1450 degrees Fahrenheit, in violation of Section B.2. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

e. For EU P002, Respondent exceeded the annual OC emissions rate of 11.0 tons per year ("TPY") for the years 2006 and 2007, in violation of Section A.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 16.2 TPY and 20.0 TPY, respectively;

f. For EU P002, Respondent exceeded the monthly OC emissions rate of 0.92 ton per month ("TPM") for 23 months between June of 2005 and March of 2008, in violation of Section A.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

g. For EU P003, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P003 is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2003 stack test, the average temperature is 1,335 degrees Fahrenheit. For 3 percent of the operating time between October of 2003 and March 11, 2008, Respondent failed to operate under this temperature designation, in violation of Section B.1. of the terms and conditions of PTI 14-05345 and ORC § 3704.05(C);

h. For EU P004, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P004 is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emissions test that demonstrated the emissions unit was in compliance. Based upon the October 2006 stack test, the average temperature is 1,395 degrees Fahrenheit. For 8.7 percent of the operating time between October 2006 and March 11, 2008, Respondent failed to operate under this temperature designation, in violation of Section B.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C);

i. For EU P005, the average combustion temperature for the thermal oxidizer, for any 3-hour block of time when EU P005 is in operation, shall not be less than 1450 degrees Fahrenheit. For 79 percent of the operating time between June 21, 2005 and March 11, 2008, Respondent failed to keep the average combustion temperature of the thermal oxidizer at no less than 1450 degrees Fahrenheit, in violation of Section B.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C);

j. For EU P005, Respondent exceeded the annual OC emissions rate of 11.0 TPY for the years 2006 and 2007, in violation of Section A.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C). Specifically, the annual OC emissions for 2006 and 2007 were 13.0 TPY and 24.4 TPY, respectively; and

k. For EU P005, Respondent exceeded the monthly OC emissions rate of 0.92 TPM for 21 months between May of 2006 and March of 2008, in violation of Section A.1. of the terms and conditions of PTI 14-05702 and ORC § 3704.05(C).

6. HCDOES notified Respondent of the violations referenced in Finding No. 5 of these Orders in letters dated March 26 and May 20, 2008.

7. On April 24, 2008, Respondent submitted a compliance plan to HCDOES and, on May 30, 2008, Respondent installed an interlocking system on all emissions units to prevent operation of the thermal oxidizers if temperatures were to fall below permitted limits.

8. On August 19, 2008, HCDOES conducted a compliance inspection at the Facility. As a result of this inspection, HCDOES determined that all emissions units were in compliance with the terms and conditions of the PTOs, PTI 14-05345, PTI 14-05702.

9. 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 seventy-eight thousand seven hundred dollars (\$78,700) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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 sixty-two thousand nine hundred and sixty dollars (\$62,960) 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. In lieu of paying the remaining fifteen thousand seven hundred and forty dollars (\$15,740) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$15,740 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$15,740. 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.

3. A copy of each of the above checks 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

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$15,740 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required in 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, operations by Respondent.

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:

Hamilton County Department of Environmental Services
250 William Howard Taft Road
Cincinnati, Ohio 45219
Attn: Kerri Castlen

and to:

Ohio Environmental Protection Agency
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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

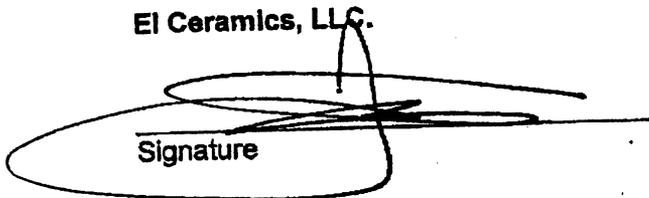


Chris Korleski
Director

12-17-09
Date

AGREED:

El Ceramics, LLC.



Signature

12/16/09
Date

JAMES L. MCINTOSH
Printed or Typed Name

PRESIDENT.
Title