

OHIO E.P.A.
JUN 17 2009

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Plasti-Kote Company, Inc. : Director's Final Findings
1000 Lake Road : and Orders
Medina, Ohio 44256 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Plasti-Kote Company, 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 the 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 has determined the following findings:

1. Respondent owns and operates a facility located at 1000 Lake Road, Medina, Medina County, Ohio ("Facility"). At the Facility, Respondent manufactures various paints and coatings for home and automotive use.
2. Akron Regional Air Quality Management District ("ARAQMD") is a contractual agent for Ohio EPA in Medina County for the administration of Ohio's air pollution control rules and laws.

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: Joseph Lassiter Date: 6-17-09

3. On February 16, 1994, Ohio EPA issued permit-to-install ("PTI") 16-1332 for a plastic cap spray booth, which is identified by Ohio EPA as emissions unit ("EU") R005. The terms and conditions of PTI 16-1332 contain applicable emission limitations and operational control and reporting requirements for EU R005. EU R005 is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W).

4. On November 24, 1999, Ohio EPA issued PTI 16-1973 for a specialty products mixing room, which is identified by Ohio EPA as EU P007. The terms and conditions of PTI 16-1973 contain applicable emission limitations and operational control and reporting requirements for EU P007. EU P007 is an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

5. On February 9, 2000, Ohio EPA issued synthetic minor PTI 16-1990 for three large mixing tanks, which are identified by Ohio EPA as EUs P018, P019 and P020. PTI 16-1990 was modified on April 26, 2001. The terms and conditions of PTI 16-1990 contain applicable emission limitations and operational control and reporting requirements for EUs P018, P019 and P020. These EUs are each an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

6. On October 5, 2000, Ohio EPA issued synthetic minor PTI 16-1940 for four plastic cap spray booths, which are identified by Ohio EPA as EUs K002, R003, R004 and R006. The terms and conditions of PTI 16-1940 contain applicable emission limitations and operational control and reporting requirements for EUs K002, R003, R004 and R006. These EUs are each an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

7. On September 9, 2003, Ohio EPA issued PTI 16-02317 for a plastic cap spray booth, which is identified by Ohio EPA as EU K003. The terms and conditions of PTI 16-02317 contain applicable emission limitations and operational control and reporting requirements for EU K003. EU K003 is an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

8. On March 2, 2004, Ohio EPA issued synthetic minor PTI 16-02334 for twelve paint mixing stations and one spray booth, which are identified by Ohio EPA as EUs P027, P028, P029, P030, P031, P032, P033, P034, P035, P036, P037, P038 and R007, respectively. The terms and conditions of PTI 16-02334 contain applicable emission limitations and operational control and reporting requirements for EUs P027, P028, P029, P030, P031, P032, P033, P034, P035, P036, P037, P038 and R007. These EUs are each an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

9. On December 2, 2005, Ohio EPA issued PTI 16-02430 for tank washing, which is identified by Ohio EPA as EU P025. The terms and conditions of PTI 16-02430 contain applicable emission limitations and operational control and reporting requirements for EU P025. EU P025 is an "air contaminant source" as defined in OAC Rule 3745-15-01(C) and (W).

10. On May 29, 2002, a Title V permit (16-52-05-0060) was issued to Respondent for the Facility. The Title V permit was modified on November 21, 2005. The Title V permit establishes terms and conditions under which the EUs at the Facility are to be operated in order to ensure compliance with state and federal air pollution control laws and regulations. Specifically, Respondent's Title V permit, in part, establishes emission limitations, operational control and reporting requirements for the EUs listed in Finding Nos. 3 through 7 and Finding No. 9 of these Orders. The EUs identified in Finding No. 8 of these Orders are considered insignificant EUs in the Title V permit. The Title V permit expired on May 29, 2007; however, its requirements remain in effect pursuant to OAC Rule 3745-77-08(E)(1) until a renewal Title V permit is issued by Ohio EPA. A renewal permit application was timely submitted by Respondent to Ohio EPA on November 22, 2006.

11. On September 20, 2005, ARAQMD conducted a compliance inspection at the Facility. As a result of this inspection, ARAQMD determined that Respondent had; *inter alia*:

a. For EUs P007 and P025, failed to document whether or not each raw material and cleanup material is a photochemically reactive material, in violation of Title V permit terms and conditions A.III.1.b. and A.III.2.b., PTI 16-1973 terms and conditions A.III.1.b. and A.III.2.b., and ORC § 3704.05(C) and (J)(2);

b. For EUs K002, R003, R004 and R006, failed to properly maintain monthly records, in violation of Title V permit term and condition A.III., PTI 16-1940 term and condition A.III., and ORC § 3704.05(C) and (J)(2);

c. For EU R005, failed to record the total coating usage each day, in violation of Title V permit term and condition A.III. and ORC § 3704.05(C) and (J)(2); and

d. For EU R007, failed to record each coating that is employed each month, in violation of PTI 16-02334 permit term and condition A.III. and ORC § 3704.05(C).

12. By letter dated October 6, 2005, ARAQMD notified Respondent of the violations referenced in Finding No. 11 of these Orders.

13. On November 4, 2005, Respondent submitted a response to the October 6, 2005 notice of violation letter from ARAQMD.

14. Under the terms and conditions of Respondent's Title V permit and PTI's 16-1940, 16-02317, 16-1990, and 16-02430, Respondent must file annual emissions reports for EUs K002, K003, P018, P019, P020, P025, R003, R004, and R006 and the facility-wide annual emissions reports with ARAQMD by April 15 of each year. Respondent failed to file the 2006 annual emissions reports for these emissions units on time, in violation of Part III.A.IV. of the Title V permit terms and conditions; Part III.A.IV. of the terms and conditions of PTI's 16-1940, 16-02317, 16-1990, and 16-02430; and ORC § 3704.05(C) and (J)(2). The annual emissions reports for EU P007 are due by January 31 of each year. On April 27, 2007, ARAQMD received Respondent's 2006 annual emissions report for EU P007. This is in violation of Part III.A.IV. of the Title V permit terms and conditions; Part III.B.IV. of the terms and conditions of PTI 16-1973; and ORC § 3704.05(C) and (J)(2).

15. On August 27, 2007, ARAQMD conducted a compliance inspection at the Facility. As a result of this inspection and of reviewing information submitted by Respondent, the Director has determined that Respondent had; *inter alia*:

a. For EUs K001, K002, K003, P007, R003, R004 and R006, from October 5, 2000 to the present, failed to document whether or not each raw material and cleanup material is a "photochemically reactive material," as defined in OAC Rule 3745-21-01(C)(5), in violation of Title V permit terms and conditions A.III.1.b., A.III.2.b., and A.III.3.b.; PTI 16-1940, PTI 16-1973 and PTI 16-02317 terms and conditions A.III.1.b., A.III.2.b., and A.III.3.b.; and ORC § 3704.05(C) and (J)(2);

b. For EU R005, employed more than 5.0 gallons of coating per day for twenty-one days between May 14, 2003 and June 25, 2007; failed to report these deviations in the quarterly reports for the 2nd quarter of 2003, 3rd quarter of 2005, 1st and 3rd quarters of 2006 and 1st and 2nd quarters of 2007; and from May 29, 2002 until October 19, 2007, failed to record the total number of gallons of coatings employed each day, in violation of PTI 16-1332; Parts A.II.1., A.III.2.e. and A.IV.2.b. of the terms and conditions of the Title V permit; and ORC § 3704.05(C) and (J)(2). In addition, Respondent failed to timely submit the semi-annual coating usage report for EU R005 by August 15, 2007, in violation of PTI 16-1332 and ORC § 3704.05(C) and (J)(2);

c. For EUs K002, R003, R004 and R006, failed to properly maintain records of the volatile organic compound ("VOC") and acetone contents of each coating from May 29, 2002 until the present, in violation of Parts A.III.5.b and 5.c (for EUs R003 and R006) and A.III.6.b. and 6.c. (for EUs K002 and R004) of the terms and conditions of the Title V permit and PTI 16-1940 and ORC § 3704.05(C) and (J)(2);

d. For EUs K002 and R004, failed to account for the thinner added to the coating to determine compliance with the 12-month rolling usage limitation, in violation of Part III.A.III.5.c. of the terms and conditions of the Title V permit; Part III.A.III.5.b. of the terms and conditions of PTI 16-1940 and ORC § 3704.05(C) and (J)(2); and

e. For EU R007, failed to record the VOC, individual hazardous air pollutant ("HAP") and combined HAPs contents for each coating from March 2, 2004 until the present, in violation of PTI 16-02334 permit term and condition A.III. and ORC § 3704.05(C).

16. By letter dated September 5, 2007, ARAQMD notified Respondent of the violations referenced in Finding No. 15 of these Orders.

17. By letter dated October 18, 2007, Respondent submitted a response to the September 5, 2007 letter.

18. By letter dated June 2, 2008, Respondent submitted a deviation report to ARAQMD notifying it that on sixteen days from April 16, 2008 through May 29, 2008, Respondent exceeded the 5.0 gallon per day coating usage limitation for EU R005, in violation of Part III.A.II.1. of the terms and conditions of Respondent's Title V permit, PTI 16-1332 and ORC § 3704.05(C) and (J)(2).

19. By letter dated July 1, 2008, ARAQMD sent Respondent a notice of violation letter for the violations referenced in Finding No. 18 of these Orders.

20. By letter dated July 24, 2008, Respondent submitted a response to the July 1, 2008 letter.

21. On December 8, 2008, Ohio EPA sent proposed Director's Final Findings and Orders to Respondent for the aforementioned air pollution control permit, rule and law violations.

22. On February 23, 2009, Respondent submitted permit deviation reports, to Ohio EPA, that disclosed exceedances of the VOC content and emission limitations for EUs R004 and K002 during the period from February 4, 2005 until January 30, 2009. These exceedances constituted violations of the terms and conditions of Respondent's Title V permit, PTI 16-1940 and ORC § 3704.05(C) and (J)(2).

23. On April 13, 2009, Ohio EPA provided Respondent with a revised civil penalty demand that incorporated the violations of the VOC content and emission limitations for EUs R004 and K002 as identified by Respondent in its February 23, 2009 reports.

24. 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. Within one hundred and twenty (120) days from the effective date of these Orders, Respondent shall submit, to Ohio EPA, one of the following: (1) a complete and approvable Title V permit application for the Facility; or (2) a complete and approvable synthetic minor PTI application or Federally Enforceable State Operating Permit applications in order to remove Title V permit applicability from the Facility.

2. Respondent shall pay the amount of two hundred forty thousand dollars (\$240,000) in settlement of Ohio EPA's claims 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 one hundred ninety-two thousand dollars (\$192,000) 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

3. In lieu of paying the remaining forty-eight thousand dollars (\$48,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$48,000 to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$48,000. 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.

4. 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$48,000 of the civil penalty in accordance with the procedures in Order 2.

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 the purposes of these Orders, a responsible official is a principal executive officer of at least the level of vice president or his duty authorized representative.

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:

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, Ohio 44308
Attn: Laura Miracle

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

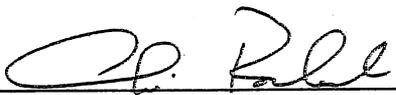
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

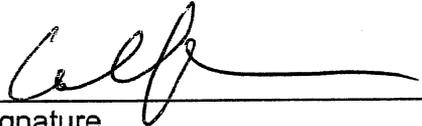


Chris Korleski
Director

Date 6/15/09

IT IS SO AGREED:

Plasti-Kote Company, Inc.



Signature

Date June 5, 2009

Rolf Engh
Printed or Typed Name

Secretary
Title