

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
SEP 27 2011

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Akron Iron & Metal, LLC
1451 Trump Road
Canton, Ohio 44730

:
:
:

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: Jonny Cassler Date: 9-27-11

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Akron Iron & Metal, 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 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 rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent's facility is located at 1451 Trump Road, in Canton, Stark County, Ohio ("the facility"). The landowner is The Joseph A. Jeffries Company. The facility is a metal salvage operation and processes large scrap metal pieces for steel mills and other end users. At the facility, Respondent employs three jet torches to cut large pieces of scrap metal. The torches were installed and began operation in March 2008. The three torches are Victor Equipment's model number HC 1500C and use propane or natural gas as fuel and have oxygen-pressurized nozzles.

2. The three jet torches are each an "air contaminant source," as defined in Ohio Administrative Code ("OAC") Rules 3745-15-01(C) and (X), and 3745-31-01(I) and are "new sources," as defined in OAC Rule 3745-31-01(UUU). Also, the torches are

"fugitive dust sources," as defined in OAC Rule 3745-17-01(B)(7).

3. The facility is located in an Appendix A area under OAC Rule 3745-17-08 and, therefore, the fugitive dust sources at the facility are subject to the requirements of such rule.

4. New sources of air contaminant emissions are required to employ the best available technology ("BAT") as a condition to obtaining a permit to install pursuant to OAC Rule 3745-31-05(A)(3).

5. OAC Rule 3745-17-08(B) states, in part, that no person shall cause or permit any fugitive dust source to be operated; or any material to be handled, transported, or stored; or a road to be used without taking or installing reasonably available control measures ("RACM"), as defined in OAC Rule 3745-17-01(B)(15), to minimize or eliminate visible particulate emissions of fugitive dust.

6. OAC Rule 3745-17-07(B)(1) states that, except as otherwise provided in paragraphs (B)(2) to (B)(11) of this rule, visible particulate emissions from any fugitive dust source shall not exceed twenty percent opacity as a three-minute average.

7. OAC Rule 3745-31-02 [prior to June 30, 2008] required that a person not allow the installation or modification of an air contaminant source without first applying for and obtaining a permit to install ("PTI"), except as otherwise provided by rule or law.

8. OAC Rule 3745-31-02(A)(1)(b) [effective June 30, 2008] requires that a person not allow the installation or modification of an air contaminant source that is not required to obtain a Title V permit under OAC Chapter 3745-77 without first applying for and obtaining a permit to install and operate ("PTIO"), except as otherwise provided by rule or law.

9. Former OAC Rule 3745-35-02 [rescinded June 30, 2008] required any owner or operator of an air contaminant source not subject to OAC Rule 3745-77-02 to apply for and obtain a permit to operate ("PTO") prior to operating any air contaminant source, except as otherwise provided by rule or law.

10. OAC Rule 3745-31-02(A)(1)(c) [effective June 30, 2008] required any owner or operator of an air contaminant source that is not required to obtain a Title V permit under OAC Chapter 3745-77 to apply for and obtain a PTIO prior to operating any air contaminant source, except as otherwise provided by rule or law.

11. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA. OAC Chapters 3745-17, 3745-31, and 3745-35 were adopted by the Director pursuant to ORC Chapter 3704.

12. Respondent failed to apply for and obtain a PTI for the three torches prior to installing the torches in March 2008, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

13. Respondent operated the three torches from March 2008 to June 29, 2008 (one day before OAC Rule 3745-35-02 was rescinded), in violation of the former OAC Rule 3745-35-02 and ORC § 3704.05(G), and from June 30, 2008 to January 10, 2011, in violation of OAC Rule 3745-31-02(A)(1)(c) and ORC § 3704.05(G).

14. Respondent operated the three jet torches from March 2008 to January 1, 2011, without employing RACM, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G). Also, the jet torches were installed and operated during the same time period without employing BAT for the control of fugitive dust emissions. BAT and RACM for jet torching operations consists of a 3-sided enclosure with venting to a fabric filter, or equivalent technology.

15. During a meeting at the facility on May 10, 2010, Respondent informed Canton City Health Department, Air Pollution Control Division ("APCD"), a contractual agent for Ohio EPA in Stark County, that it contacted a company to design a control measure for the torches.

16. On July 14, 2010, Respondent submitted to APCD a PTIO application for the three jet torches as one emissions unit (emissions unit P901). The PTIO application included Respondent's plan to build a three-compartment enclosure equipped with a baghouse as RACM and BAT for the torching operations at the facility.

17. The following table lists the dates of the notice of violation ("NOV") letters sent to Respondent by APCD for the violations associated with the operation of the torches at the facility and the dates of Respondent's responses:

NOV Date	Response Received (Dated)
04/14/2010	04/27/2010 (04/23/2010) 06/02/2010 (06/02/2010)
07/12/2010	07/19/2010 (07/19/2010)

18. On July 2, 2010 and July 6, 2010, APCD observed the torching operation at Respondent's facility, and U.S. EPA Method 9 readings for visible particulate emissions were performed. Visible particulate emissions taken as three-minute non-overlapping averages exceeded 20% opacity on both days, in violation of OAC Rule 3745-17-07(B)(1) and ORC § 3704.05(G). The observation period on July 2, 2010 was for 12 minutes and two non-overlapping three-minute averages (71.3% and 70.8%) exceeded 20% opacity. The observation period on July 6, 2010 was for 13 minutes and four three-minute averages (73.8%, 73.3%, 58.3%, and 40.8%) exceeded 20% opacity.

19. Respondent completed the installation of the 3-sided enclosure with a baghouse on January 1, 2011, as RACM and BAT for the torches.

20. 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 one hundred forty-two thousand and two hundred dollars (\$142,200) 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 thirteen thousand seven hundred and sixty dollars (\$113,760) 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 twenty-eight thousand four hundred and forty dollars (\$28,440) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$28,440 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 \$28,440. 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 Tom Kalman, Acting 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 \$28,440 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 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, 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:

Canton City Health Department
Air Pollution Control Division
420 Market Avenue North
Canton, Ohio 44702-1544
Attn: Terri Dzienis

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Tom Kalman, Acting Assistant Chief
SIP Development and Enforcement

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

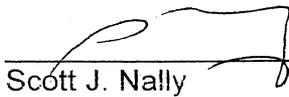
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



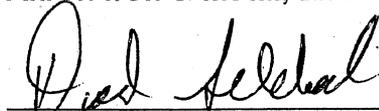
Scott J. Nally
Director

9/23/11

Date

AGREED:

Akron Iron & Metal, LLC



Signature

8/12/11

Date

Donald Schnackel

Printed or Typed Name

President

Title