

Issue Date: June 1, 1999

Effective Date: June 1, 1999

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

<p>Bailey - PVS Oxides, L.L.C. 135 Technology Drive P.O. Box 70 Southpoint Industrial Park Canonsburg, Pennsylvania 15317</p> <p>Applicant</p>	<p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p>	<p><u>Variance from Waste Classification</u></p>
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OHIO E.P.A.
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 ENTERED DIRECTOR'S JOURNAL

PREAMBLE

The issuance of this variance is expressly conditioned upon the Applicant's and Covered Generators' agreement to the following terms and conditions.

I. JURISDICTION

This variance is issued pursuant to the authority vested in the Director of Ohio EPA under Chapter 3734. of the Ohio Revised Code ("ORC") and Ohio Administrative Code ("OAC") rule 3745-50-311. The Applicant and Covered Generators consent to and agree not to contest the Director's authority and Ohio EPA's jurisdiction to issue this variance.

II. PARTIES COVERED

This variance shall apply only to the Applicant and Covered Generators. The Applicant shall not accept spent pickle liquor for reclamation at the Facility from any party other than a Covered Generator. This variance may not be transferred or assigned to any other party.

At the request of the Applicant, the Director will consider modifying this variance to add additional generators to this variance. A request to add an additional generator shall be in the form of an application for a variance submitted in accordance with OAC

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

By: Zona L. Clements Date: 6-1-99

rules 3745-50-311 and 3745-50-312 by both the Applicant and the additional generator, and shall include, at a minimum, the following information:

1. A description of the additional generator's facility;
2. A description of how the additional generator is currently managing and disposing of its spent pickle liquor; and
3. A copy of any contracts or other agreements that the Applicant has entered into with the additional generator regarding the additional generator's spent pickle liquor.

III. DEFINITIONS

Unless otherwise expressly provided herein, the terms used in this variance shall have the same meaning as used in Chapter 3734. of the Revised Code. Whenever the terms listed below are used in this variance, the following definitions shall apply:

1. "Applicant" shall mean Bailey-PVS Oxides, L.L.C., which constructs, operates and maintains spent pickle liquor reclamation facilities at various locations in the United States and abroad;
2. "Application" shall mean the application for a variance submitted by Bailey-PVS Oxides, L.L.C. on June 12, 1998, which is attached hereto and incorporated herein as Appendix A;
3. "Covered Generators" shall mean Worthington Steel Company, Delta, Ohio (OHR000017897), Worthington Steel Company, Monroe, Ohio (OHD093903425) and Worthington Steel Company, Porter, Indiana (IND984891374);
4. "Facility" shall mean the spent pickle liquor reclamation facility to be located at 6191 County Road 10, Delta, Ohio, 43515, which is to be operated by the Applicant and which is scheduled for completion in February or March of 1999;
5. "Ohio EPA" shall mean the Ohio Environmental Protection Agency and its designated representatives;

6. "Paragraph" shall mean a portion of this variance identified by an Arabic numeral or an upper or lower case letter;
7. "Parties" shall mean the Ohio EPA, the Applicant and the Covered Generators; and
8. "Section" shall mean a portion of this variance identified by a Roman Numeral.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. On June 12, 1998, the Applicant submitted an Application for a variance from classification as a waste for spent pickle liquor produced from steel manufacturing operations at certain facilities owned and operated by the Covered Generators.
2. The Applicant constructs, operates and maintains spent pickle liquor reclamation facilities at various locations in the United States and abroad. The Applicant intends to construct a spent pickle liquor reclamation facility at 6191 County Road 10, in Delta, Ohio in order to accept spent pickle liquor from the Worthington Steel Company's facilities located in Delta and Monroe, Ohio and Porter, Indiana.
3. The Application addressed the standards and criteria set forth in OAC rule 3745-50-312(B) for issuing a variance from classification as a waste in the following manner:
 - a. *How economically viable the production process would be if it were to use virgin materials rather than reclaimed materials.*

The reclamation process generates two valuable products - raw pickle liquor and iron oxide. The use of spent pickle liquor in the oxide production process eliminates the need to purchase raw acid and scrap steel.

The Applicant states in Attachment A of the Application that the Worthington Steel Company will save significant costs annually as a result of eliminating the need for procurement of raw pickle liquor.

- b. *The prevalence of the practice on an industry-wide basis.*

The Applicant states in Attachment C of the Application that there are thirteen such spent pickle liquor regeneration plants in North America and 138 plants worldwide.

- c. *The extent to which the material is handled before reclamation to minimize loss.*

In the Application, the Applicant describes the proposed reclamation Facility's loading and unloading capabilities and procedures, and describes its inventory and accounting procedures.

The Applicant also describes the Covered Generators' spent pickle liquor accumulation facilities.

- d. *The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process.*

The Applicant estimates the longest residence time for spent pickle liquor to be 6.3 days.

- e. *The location of the reclamation operation in relation to the production process.*

The Applicant states that the longest distance between a potential Covered Generator and the reclamation Facility is 162 miles. The shortest being 0.1 miles.

- f. *Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form.*

In the Application, the Applicant states that the regenerated pickle liquor will be returned to the steel making process to pickle steel.

- g. *Whether the person who generates the material also reclaims it.*

The Applicant will reclaim spent pickle liquor from the Covered Generators under contracts included in the Application.

- h. *Other relevant factors.*

In the Application, the Applicant states that the use of spent pickle liquor in the production of iron oxide and regenerated pickle liquor provides an alternative to using spent pickle liquor in the treatment of waste water, which may in turn eliminate the handling and use of chlorine needed to convert spent pickle liquor to ferric chloride. In addition, the use of spent pickle liquor in the production of iron oxide and regenerated pickle liquor eliminates waste water treatment sludges that may contain hazardous constituents contained in spent pickle liquor.

The Applicant further states in the Application that the iron oxide regeneration process produces virtually no waste.

The Applicant and Covered Generators have entered into contracts regarding the reclamation of spent pickle liquor lasting as long as 20 years.

4. The issuance of a variance in this matter would allow for the use of spent pickle liquor in the production of iron oxides and regenerated pickle liquor. Currently, the iron component of the pickle liquor is often disposed of with waste water treatment sludges. The use of spent pickle liquor to produce iron oxide and pickle liquor should eliminate the disposal of the iron component of the pickle liquor.
5. Based upon the information submitted by the Applicant in the attached Application, the Director finds that spent pickle liquor that is used to produce iron oxide and reusable pickle liquor, in the process and waste handling facilities described in the Application, is not a waste when transported, stored or processed in Ohio.

V. GENERAL PROVISIONS

All activities undertaken by the Applicant and Covered Generators pursuant to this variance shall be performed in accordance with the requirements of all applicable federal, state and local laws, regulations and ordinances.

1. The Applicant and Covered Generators describe the spent pickle liquor reclamation process and detail their intended use of it in the Application. The Applicant and Covered Generators shall construct, operate and maintain all of their respective equipment and facilities associated with the reclamation process in accordance with the description and intended use of the spent pickle liquor reclamation process as set forth in the attached Application. In addition, the Applicant and Covered Generators shall comply with the following conditions:
 - a. The Applicant shall record and retain, as long as this variance is in effect, documentation of: analysis of each incoming load of spent pickle liquor, amounts of spent pickle liquor received from each Covered Generator, amounts of iron oxide produced and sold, and amounts of pickle liquor returned to each of the Covered Generators.
 - b. The Applicant shall report the information required in Paragraph 1.a. of this Section to Ohio EPA on an annual basis with the first report required due on March 1, 2000.
 - c. The Applicant and Covered Generators shall clean up and manage any spills or releases of spent pickle liquor, any unusable residues generated by the reclamation process, and any unmarketable iron oxide and hydrochloric acid, as K062 hazardous waste in accordance with all applicable hazardous waste regulations.
 - d. With respect to spent pickle liquor generated at their respective facilities in Ohio, Worthington Steel Company shall continue to comply with the standards for storage of hazardous waste in tanks as found in OAC rules 3745-66-90 through 3745-66-992, the requirements for personnel training found in OAC rule 3745-65-16, the requirements concerning preparedness and prevention found in OAC rules 3745-65-30 through 3745-65-37, and the requirements

concerning contingency plans and emergency procedures found in OAC rules 3745-65-50 through 3745-65-56.

- e. Within 30 days after the termination of this variance pursuant to Section VI., Termination, the Applicant shall prepare and submit to Ohio EPA a Sampling Analysis and Remediation Plan ("SARP") that meets the requirements of OAC rules 3745-66-11(A) and (B) and 3745-66-14 and 3745-66-97.
- f. Upon the Applicant's receipt of approval from Ohio EPA of the SARP, the Applicant shall implement the approved SARP in accordance with the requirements of OAC rules 3745-66-11(A) and (B) and 3745-66-14 and the specifications and schedule contained in the approved SARP.
- g. Within 60 days after completion of work required by the approved SARP, the Applicant shall submit to Ohio EPA, for review and approval, a certification that the work was conducted in accordance with the approved SARP. This certification shall be signed by the Applicant and shall follow the format found in OAC rule 3745-50-42(D).

VI. TERMINATION

Unless otherwise revoked by the Director, this variance shall terminate when one of the following events occurs:

- 1. The Applicant no longer owns and/or operates the Facility;
- 2. The Applicant no longer engages in the management of spent pickle liquor at the Facility; or
- 3. Five years after the effective date of this variance. Before this five year period expires, the Applicant may submit an application for a renewal to the Director in accordance with applicable law.

The Applicant shall provide written notice to Ohio EPA within seven days after the date any of the events in this Section occurs.

VII. ACCESS TO INFORMATION

The Applicant and Covered Generators shall provide Ohio EPA, upon request, copies of all documents and information relating to this variance within their respective possession or control, or within the possession or control of their respective contractors or agents, including but not limited to documents and information related to the issuance, use and implementation of this variance.

The Applicant and Covered Generators may assert a claim that documents and other information submitted to Ohio EPA pursuant to this variance are confidential under the provisions of OAC rule 3745-50-30. If no such claim of confidentiality accompanies the documents and other information when they are submitted to Ohio EPA, the documents and other information may be made available to the public without notice to the Applicant or Covered Generators.

The Applicant and Covered Generators may assert that certain documents and information are privileged under attorney-client or any other privilege recognized by state law. If the Applicant or Covered Generators make such an assertion, the Applicant or Covered Generators shall provide Ohio EPA with the following: (1) the title of the document or information; (2) the date of the document or information; (3) the name and title of the author of the document or information; (4) the name and title of each addressee and recipient; (5) a general description of the contents of the document or information; and (6) the privilege being asserted by the Applicant or Covered Generators.

No claim of confidentiality shall be made with respect to any data, including but not limited to, all sampling, analytical monitoring, or laboratory or interpretive reports.

Nothing in this Section shall be construed as in any way limiting Ohio EPA's access, inspection and information gathering rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

VIII. ACCESS TO SITES

The Applicant and Covered Generators shall provide Ohio EPA with access, at all reasonable times, including during normal business hours, to Applicant's Facility and to the facilities owned or operated by the Covered Generators. Access under this variance shall be for the purpose of conducting any activity related to this variance or Ohio EPA's regulatory responsibilities, including but not limited to, the following:

1. Monitoring the implementation or use of this variance;
2. Conducting sampling;
3. Inspecting and copying records, operating logs, contracts, and other documents and information related to the implementation or use of this variance; and
4. Verifying any data or other information submitted to Ohio EPA.

Nothing in this Section shall be construed as in any way limiting Ohio EPA's access, inspection and information gathering rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

IX. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to this variance shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. Nothing in this variance shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to the Applicant's operation of its Facility and Covered Generators' operation of their respective facilities. Ohio EPA reserves all rights and privileges except as specifically provided herein.

X. NOTICE

Annual reports and other information required to be submitted to Ohio EPA pursuant to this variance shall be sent to the following addresses:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Lazarus Government Center
P.O. Box 1049
Columbus, OH 43216-1049

and

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, OH 43230

For documents sent by courier services:

Ohio Environmental Protection Agency
Division of Hazardous Waste Management
Lazarus Government Center
122 South Front Street
Columbus, OH 43215

XI. MODIFICATION

Ohio EPA retains the sole and exclusive right to modify this variance for any reason at any time.

XII. RESERVATION OF RIGHTS

Ohio EPA reserves the right to take any action, including but not limited to, the right to seek injunctive relief, recover costs, pursue civil penalties, seek criminal penalties, or undertake any removal, remedial or response action, pursuant to any available legal authority as a result of past, present or future violations of state or federal laws or regulations, or the common law, arising from events or conditions related to the Applicant's Facility or the facilities owned or operated by the Covered Generators.

Notwithstanding any provision of this variance, the State of Ohio retains all of its access, inspection and information gathering rights and authorities, including enforcement authorities related thereto, under any applicable statute or regulation.

XIII. SIGNATORIES

Each undersigned representative of a signatory to this variance certifies that he or she is fully authorized to enter into this variance and to legally bind such signatory to this document.

IT IS SO DECIDED:



Christopher Jones
Director

6/1/89

Date

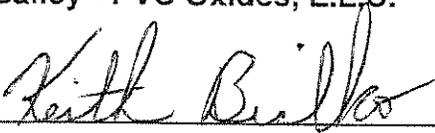
XIV. WAIVER

The Applicant and the Covered Generators agree that this variance is lawful and reasonable and agree to comply with all terms and conditions contained herein.

The Applicant and Covered Generators hereby waive the right to appeal the issuance, terms and conditions, notice, service, implementation, modification, termination or revocation of this variance and hereby waive any and all rights that they may have to seek judicial review of the issuance, terms and conditions, notice, service, implementation, modification, termination or revocation of this variance either in law or equity.

IT IS SO AGREED:

Bailey - PVS Oxides, L.L.C.



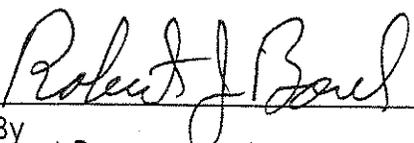
By V.P. Operations

Title

May 10, 1999

Date

Worthington Steel Company



By VP Operations

Title

5/13/99

Date

Ohio Environmental Protection Agency



Christopher Jones
Director

6/1/99

Date