

AGENDA FOR THE DECEMBER 3, 2009 EC MEETING

CASES TO BE CLOSED:

Thermo-Rite Manufacturing Co.	#2707	Akron	Final F&Os	Tom/Marc
D&R Supply, Inc.	#2786	NEDO	Final F&Os	Tom/Marc
Gary Rogers, d.b.a. Rogers Sunoco	#2800	NEDO	AGO Ref.	Tom/Don
Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell	#2801	NEDO	AGO Ref.	Tom/Marc

PENDING CASES:

OmniSource Corporation		NWDO	Prop. F&Os	Tom/Marc
Lima Division	#2676			
St. Marys Division	#2745			
Mansfield Division	#2821			
Bailey-PVS Oxides Delta, L.L.C.	#2820	NWDO	Prop. F&Os	Tom/Marc

OTHER BUSINESS:

- (1) Distribute updated schedule of progress for resolving all "old" cases for 2008.
- (2) Distribute updated schedule of progress on resolving all "old" cases for 2009.
- (3) Distribute updated schedule of progress on resolving all "old" cases for 2010.
- (4) **Jim is scheduled to provide food for today's meeting at 9:30 a.m. in DAPC Rm C.**
- (5) The next EC meeting is scheduled for Thursday, December 17, 2009 at 3:00 p.m. in DAPC Rm C. John is scheduled for food. (Future food schedule: Don for December 31; Bryan for January 14.)

ENFORCEMENT COMMITTEE MEETING MINUTES

(December 03, 2009)

Case Number: 2707	Dates:
Entity: Thermo-Rite Manufacturing Company, Inc.	EAR: 03/12/08
Field Office: Akron	DWL: N/A
Contact: Urvi Doshi/Tom Kalman	F&Os: 12/02/09
Attorney: Marc Glasgow	Referral: N/A
	Dismissal: N/A

Background: On July 7, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Thermo-Rite Manufacturing Company, Inc. ("Thermo-Rite") to attempt an administrative settlement of the violations that occurred at its fireplace screen and cover manufacturing facility located at 1355 Evans Avenue, Akron, Summit County, Ohio. The violations involved a conveyORIZED spray booth with bake oven and an in-line halogenated solvent degreaser (emissions units K001 and L001, respectively), a batch vapor degreaser (emissions unit L002), and a paint booth (emissions unit K002). The proposed F&Os cited Thermo-Rite with violations of the terms and conditions of its Title V permit, the permits to install ("PTI") associated with each of these emissions units, the MACT requirements of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C), (G) and (J)(2), as summarized in the following:

- (1) Failing to return the solvent level of the cleaning machines to the same fill-line each month, from April 10, 2007 to March 19, 2008, for 344 days for L001; and from April 2, 2007 to March 19, 2008, for 352 days for L002; in violation of the Title V permit, PTI #16-02355, Section 63.465(b) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C) and (J)(2).
- (2) Failing to maintain records of dates and amounts of solvent added to solvent cleaning machine L001, from July 17, 2007 to March 19, 2008, for 246 days, in violation of the Title V permit, Section 63.467(c)(1) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(J)(2).
- (3) Failing to calculate the average halogenated HAP solvent emissions on the first operating day of each month for L001 and L002, from February 1, 2007 to March

21, 2008, for 412 days, in violation of the Title V permit, PTI #16-02355, Section 63.465(c) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C) and (J)(2).

- (4) Failing to keep the daily coating usage in K002 at or below 3 gallons on December 15, 2007 and January 5, 2008, in violation of the Title V permit and ORC § 3704.05(J)(2).
- (5) Exceeding the VOC emission limitation of 19.3 pounds per day from the use of coatings in K002, on December 15, 2007 and January 5, 2008, in violation of the Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2).
- (6) Failing to collect and record information each month on the cleanup materials used in K002, from January 1, 2007 to November 2008, for about 670 days, in violation of the Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2).
- (7) Failing to timely submit semi-annual exceedance reports for 2007 for the trichloroethylene emission limitation of 30.7 pounds per square foot per month (as a 3-month rolling average) for L001 and L002, from July 30 to August 16, 2007 and from January 30 to February 11, 2008, respectively, in violation of the Title V permit, PTI #16-02355, and ORC § 3704.05(C) and (J)(2).
- (8) Failing to timely submit quarterly exceedance reports for the second, third and fourth quarters of 2007, which identify all exceedances of the daily VOC emission limitation of 19.3 pounds per day for coatings for K002, in violation of the Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). (The reports were submitted on August 16, 2007, November 6, 2007 and February 11, 2008, respectively.)
- (9) Failing to timely submit quarterly exceedance reports, which identify all exceedances of the coating usage limitation of 249 gallons combined (as a 12-month rolling average) for K001 and K002 for the second, third and fourth quarters of 2007 (due by July 31 and October 31, 2007 and by January 31, 2008), in violation of the Title V permit and ORC § 3704.05(J)(2). (The reports were submitted on August 16, 2007, November 6, 2007 and February 11, 2008, respectively.)
- (10) Failing to timely submit quarterly exceedance reports, which identify each month during which organic compound emissions from L002 exceeded the limitation of 0.3 ton per month, for the second, third and fourth quarters of 2007, in violation of the Title V permit, PTI #16-02355, and ORC § 3704.05(C) and (J)(2). (The

reports were submitted on August 16, 2007, November 6, 2007 and February 11, 2008, respectively.)

- (11) Failing to timely submit an annual report for 2007 from February 1 to February 11, 2008 that specifies the total VOC emissions from K002, in violation of the Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2).
- (12) Failing to timely submit semi-annual deviation reports for 2007 (due by July 31, 2007 and January 31, 2008) for all deviations of the Title V permit's monitoring, record-keeping, reporting, testing, and miscellaneous requirements for the facility, in violation of the Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). (The reports were submitted on August 16, 2007 and March 6, 2008, respectively.)
- (13) Failing to timely submit an annual solvent emission report for 2007 from February 1 to March 6, 2008 for L001 and L002, in violation of the Title V permit, PTI #16-02355, and ORC § 3704.05(C) and (J)(2).
- (14) Failing to notify in writing within 45 days of occurrence of any daily record (i.e., on December 15, 2007 and January 8, 2008) showing that the coating line of K002 employed more than three gallons per day of coating (i.e., by January 29, 2008 and February 22, 2008), in violation of the Title V permit, PTI #16-1956, OAC Rule 3745-21-09(B)(3)(e), and ORC § 3704.05(C), (G) and (J)(2).
- (15) Failing to submit a complete annual Title V compliance certification for 2007 from April 30, 2008 to the present and a Title V compliance certification for 2008 from April 30, 2009 to the present, in violation of the Title V permit and ORC § 3704.05(J)(2).

The F&Os proposed to require Thermo-Rite to submit complete Title V compliance certifications for calendar years 2007 and 2008 to Ohio EPA within 30 days after the effective date of the F&Os. Furthermore, the F&Os would require Thermo-Rite to pay a civil penalty of \$224,500 to Ohio EPA within 30 days after the effective date of the F&Os, of which \$44,900 would be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a Supplemental Environmental Project ("SEP").

(See the EC Meeting Minutes of July 16, 2009 for additional background information.)

On February 10, 2009, Thermo-Rite sent a letter to ARAQMD in which the company indicated that it had permanently shut down emissions units K001, K002, L001 and

L002, and it was obtaining finished parts from a supplier. Also, on August 14, 2009, Thermo-Rite submitted complete Title V compliance certifications for calendars years 2007 and 2008.

During negotiations over the proposed F&Os, Thermo-Rite submitted financial documentation to attempt to show that it had an inability to pay the civil penalty. Ohio EPA's Fiscal Office reviewed the documentation and on September 22, 2009, it determined that the company had an inability to pay the proposed penalty; however, it indicated a deminimus penalty of \$57,500 could be paid based simply on one percent of net sales. Ohio EPA and Thermo-Rite subsequently reached agreement on a civil penalty and a payment plan.

Action: On December 2, 2009, final F&Os were issued to Thermo-Rite in resolution of the violations. The F&Os require Thermo-Rite to pay a civil penalty of \$36,000 to Ohio EPA, of which \$7,200 is to be directed to the Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. The penalty is to be paid in equal monthly installments of \$2,000 in the following manner:

1st three monthly payments of \$2,000 each due to SEP bus fund beginning on December 1, 2009;

4th payment of \$2,000 split into two checks, with \$1,200 due to SEP bus fund and \$800 due to Ohio EPA and payable by March 1, 2010; and

the remaining 14 monthly payments of \$2,000 each due to Ohio EPA beginning on April 1, 2010.

Case Closed



Case Number: 2786	Dates:
Entity: D&R Supply, Inc.	EAR: 12/24/08
Field Office: NEDO	DWL: N/A
Contact: Urvi Doshi/Tom Kalman	F&Os: 12/02/09
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: On June 1, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to D&R Supply, Inc. ("D&R") to attempt an administrative settlement of the violations of the particulate emissions ("PE") limitation for the company's asphaltic concrete drum mix plant located at 18228 Fulton Road in Marshallville, Wayne County, Ohio. The F&Os proposed to require D&R to achieve and demonstrate, by stack testing, final compliance with the PE limitation by no later than August 1, 2009. Also, the F&Os proposed to require D&R to pay a civil penalty of \$45,000 to Ohio EPA within 14 days after the effective date of the F&Os, of which \$9,000 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

The violations of the Permit to Install ("PTI") for the emissions unit and ORC § 3704.05(C) that were addressed by the proposed F&Os occurred as a result of two failing PE stack tests that occurred on August 1, 2007 and June 11, 2008, when PE concentrations of 0.085 gr/dscf and 0.110 gr/dscf, respectively, were measured. The PE limitation from the PTI for the emissions unit is 0.04 gr/dscf. Also, D&R was late by 13 days in submitting the first stack test results to Ohio EPA, in violation of the PTI and ORC § 3704.05(C).

(See the EC Meeting Minutes of June 4, 2009 for additional background information.)

D&R finally demonstrated compliance with the PE limit on July 30, 2009, when a PE concentration of 0.007 gr/dscf was measured. D&R achieved compliance by replacing the existing scrubber with a baghouse and by performing repairs to the baghouse to get it to operate properly.

Although D&R did not make a formal inability-to-pay demonstration with financial documentation, as part of the negotiation over the amount of the civil penalty, it requested a payment plan because of its adverse financial condition as a result of the downturn in the construction materials industry and the significant expenditures made for the replacement of its air pollution control equipment.

A settlement was eventually reached through correspondence and phone calls over the amount of the civil penalty and the length of the payment plan.

Action: On December 2, 2009, final F&Os were issued to D&R. The F&Os require D&R to pay Ohio EPA a civil penalty of \$20,000, of which \$4,000 is to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP. Payment of the civil penalty is due in accordance with the following schedule:

\$4,000 due to bus fund SEP by December 1, 2009;
\$5,000 due to Ohio EPA by January 1, 2010;

\$2,750 due to Ohio EPA by April 1, 2010;
\$2,750 due to Ohio EPA by July 1, 2010;
\$2,750 due to Ohio EPA by October 1, 2010; and
\$2,750 due to Ohio EPA by January 1, 2011.

Case Closed



Case Number: 2800	Dates:
Entity: Gary Rogers, d.b.a. Rogers Sunoco	EAR: 02/24/09
Field Office: NEDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 05/01/09 (prop.)
Attorney: Donald L. Vanterpool	Referral: 11/30/09
	Dismissal: N/A

Background: On May 1, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Gary Rogers, d.b.a. Rogers Sunoco, to attempt an administrative settlement of the violations of the Stage II vapor control system requirements at his gasoline dispensing facility ("GDF") located at 1435 Mentor Avenue in Painesville, Lake County, Ohio. The violations addressed by the proposed F&Os are as follows:

- (1) Failure to conduct annual static leak and air-to-liquid ("A/L") ratio tests as well as the five-year dynamic pressure performance test for the Stage II vapor control system since at least 2003 and to the present, while causing, allowing, or permitting the transfer of gasoline from station storage tanks into motor vehicles, in violation of OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f), and ORC § 3704.05(G);
- (2) Failure to obtain a Permit to Operate ("PTO"), and a Permit-to-Install-and-Operate ("PTIO") or a Permit-by-Rule ("PBR") for this GDF since August 13, 2003 to the present, in violation of OAC Rule 3745-31-02, former OAC 3745-35-02, and ORC § 3704.05(G); and
- (3) Failure to submit the 2006 and 2007 fee emission reports, which were due by June 6, 2008 and have not been submitted to date, in violation of OAC Rule 3745-78-02(D) and (G), and ORC § 3704.05(G).

The F&Os proposed to require Mr. Rogers to submit a Permit-by-Rule ("PBR") notification for this GDF within 30 days after the effective date of the F&Os. Also, the F&Os proposed to require Mr. Rogers, within 30 days after the effective date of the F&Os, to demonstrate that the vapor control system is operating correctly by conducting

and passing the dynamic pressure performance test, the static leak test, and A/L ratio test.

The proposed F&Os also would have required Mr. Rogers to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons (2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of records of these inspections and any repairs made were required to be submitted to Ohio EPA by August 14 for the period from March 15 through July 31 and by November 14 for the period from August 1 through October 31. Also, during the next two ozone seasons, the F&Os proposed to require Mr. Rogers to perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests were to be submitted to Ohio EPA within 14 days after completion of the tests.

Furthermore, the F&Os proposed to require Mr. Rogers to submit complete and approvable fee emission reports for 2006 and 2007 to Ohio EPA within 30 days after the effective date of the F&Os. Lastly, the proposed F&Os would have required Mr. Rogers to pay Ohio EPA a civil penalty in the amount of \$29,250, from which \$5,850 was to be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

(See the EC Meeting Minutes of May 7, 2009 for additional background information.)

On June 4, 2009, Ohio EPA Legal contacted Mr. Rogers by phone, who said he would call back the following day. He did not call back. Another call was made by the Ohio EPA's attorney on June 9, 2009, but there was no answer. On July 24, 2009, the Ohio EPA attorney contacted Mr. Rogers by phone, and he said that due to road construction during a two-year period he lost business and was in the process of recovering. He said he was gathering documents to send to Ohio EPA to show his inability to pay the proposed civil penalty.

On August 3, 2009, the Ohio EPA attorney made another call to Mr. Rogers. Mr. Rogers requested until August 7, 2009 to respond. No response was received. Mr. Rogers was called again on August 19, 2009, and he said he would call back the same day. He did not call back. Subsequent attempts to reach him by phone were unsuccessful on September 11 and 24 and October 7, 2009. A last chance letter was sent to Mr. Rogers by the Ohio EPA attorney on October 19, 2009, to which there was no response. As a result, DAPC made a recommendation to the Director that this case be referred to the Attorney General's Office ("AGO") for enforcement action.

Action: In a letter dated November 30, 2009, the Director referred this case to the AGO for enforcement action. It was recommended that the AGO resolve this case by a consent order (or a court order if necessary) requiring Mr. Rogers to comply with the

actions identified in the proposed F&Os, including the payment of a civil penalty consistent with the DAPC's policy.

Case Closed



Case Number:	2801	Dates:	
Entity:	Greg Laccheo, d.b.a. Rusty's Auto Care Shell Alton C. Laccheo and Terry Adams d.b.a. Rusty's Auto Care Shell	EAR:	02/25/09
Field Office:	NEDO	DWL:	N/A
Contact:	Jim Kavalec/Tom Kalman	F&Os:	[05/01/09 (prop.) to Greg Laccheo] [08/01/09 (prop.) to Alton L. & Terry A.]
Attorney:	Marcus Glasgow	Referral:	11/30/09
		Dismissal:	N/A

Background: On May 1, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Greg Laccheo, d.b.a. Rusty's Auto Care Shell, to attempt an administrative settlement of the violations of the Stage II vapor control system requirements at his gasoline dispensing facility ("GDF") located at 30490 Euclid Avenue in Wickliffe, Lake County, Ohio. The proposed F&Os addressed the following violations:

- (1) Failure to maintain a repair and maintenance log for the Stage II vapor control system at the GDF and proof of attendance and completion of Stage II vapor control system training for the GDF's local manager or operator, during the Ohio EPA inspection on August 25, 2004, in violation of OAC Rule 3745-21-09(DDD)(3)(a)(iii) and (vii);
- (2) Failure to conduct annual Stage II static leak and air-to-liquid ("A/L") ratio tests as well as the five-year dynamic pressure performance test since at least 2004, while causing, allowing, or permitting the transfer of gasoline from stationary storage tanks into motor vehicles, in violation of OAC Rule 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f);
- (3) Failure to submit 2006 and 2007 fee emission reports, which were due by June 6, 2008, in violation of OAC Rule 3745-78-02(D) and (G); and

- (4) Failure to comply with the above-cited rules, which were adopted by the Director pursuant to ORC Chapter 3704, in violation of ORC § 3704.05(G).

Rusty's Auto Care Shell continues to violate these rules and law despite warning letters from the Northeast District Office of Ohio EPA dated September 10, 2004, January 29, 2007, April 5, 2007, August 20, 2007, and October 21, 2008.

The proposed F&Os would require Mr. Laccheo to submit, within 30 days after the effective date of the F&Os, a Permit-by-Rule ("PBR") notification for this GDF since the permit renewal application, submitted by the previous owner, was never processed by Ohio EPA. Also, the F&Os proposed to require Mr. Laccheo to demonstrate, within 30 days after the effective date of the F&Os, that the vapor control system was operating correctly by conducting and passing the dynamic pressure performance test, the static leak test and A/L ratio test. Copies of the test reports were to be submitted to Ohio EPA within 14 days after completion of the tests. The proposed F&Os would also require Mr. Laccheo to submit, within 60 days after the effective date of the F&Os, documentation demonstrating proof of attendance and completion of the required operator training. Furthermore, within 30 days after the effective date of the F&Os, Mr. Laccheo was to be required to submit complete and approvable 2006 and 2007 fee emission reports to Ohio EPA.

Mr. Laccheo was to also conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons (i.e., 2010 and 2011), checking for leaks, malfunctions or damage to the systems. Copies of the records of these inspections and any repairs made were to be submitted to Ohio EPA by August 14 for the period from March 15 through July 31 and by November 14 for the period from August 1 through October 31. Also, during the next two ozone seasons, the F&Os proposed to require Mr. Laccheo to perform static leak and A/L ratio tests at this GDF prior to the beginning (during March) of each ozone season and during August of each ozone season. The results of these tests were to be submitted to Ohio EPA within 14 days after completion of the tests. Lastly, the proposed F&Os would require Mr. Laccheo to pay Ohio EPA a civil penalty in the amount of \$26,300, from which \$5,260 will be directed to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP.

Ohio EPA, Legal Office contacted Greg Laccheo and determined that he was not the owner or operator of the GDF. His father, Alton C. Laccheo, was the owner and Terry Adams was the operator of the GDF. Greg Laccheo seems to have some involvement in the management of the property, but Ohio EPA has not been able to determine his role.

As a result, on August 6, 2009, individual proposed F&Os, containing the same substance as the May 1, 2009 proposed F&Os, were sent to Alton C. Laccheo and to Terry Adams. The proposed F&Os sent to Alton Laccheo came back to Ohio EPA as unclaimed, so Ohio EPA resent the proposed F&Os by regular mail on September 1, 2009. Terry Adams informed Ohio EPA Legal that Greg and Alton Laccheo are

responsible for all testing and maintenance at this GDF. To date, both parties have not been responsive to Ohio EPA.

It was decided to recommend to the Director that this case be referred to the Attorney General's Office ("AGO") for enforcement action in light of the non-responsiveness of the parties.

Action: In a letter dated November 30, 2009, the Director referred this case to the AGO for enforcement action. The referral requests the AGO obtain a consent order or court order, if necessary, requiring the responsible parties to comply with all of the actions in the proposed F&Os and pay an appropriate civil penalty.

Case Closed



Case Number:	2676 (Lima Division) 2745 (St. Marys Division) 2821 (Mansfield Division)	Dates:	11/08/07 (Lima) 08/11/08 (St. Marys) 05/04/09 (Mansfield)
Entity:	OmniSource Corporation	DWL:	N/A
Field Office:	NWDO	F&Os:	11/23/09 (prop.)
Contact:	Muhammad Mereb/Tom Kalman	Referral:	N/A
Attorney:	Marcus Glasgow	Dismissal:	N/A

Background: OmniSource Corporation's ("OmniSource") corporate office is located at 7575 W. Jefferson Blvd., Fort Wayne, Indiana. OmniSource operates several scrap metal processing facilities in Ohio. These include the Lima Division, St. Marys Division, and Mansfield Division.

Lima Division

The Lima Division facility ("the facility") is located at 1610 East 4th Street, Perry Township, Allen County, Ohio. The facility processes both ferrous and non-ferrous metals. These metals are hauled to and from the facility in large open bed trucks. The trucks travel on haul roads and a scale area on the facility property. Fugitive dust is generated by the truck wheels on both paved and unpaved road surfaces on and off the facility property. The facility has two gates on East 4th Street, which is a public street immediately to the north of the facility. This public street is traversed by both company haul trucks as well as vehicles used by the general public. The west gate is the main entrance to the facility. The facility is located in a non-appendix A area of the fugitive dust rules in OAC Rule 3745-17-08; therefore, the dust control requirements of that rule

are not applicable unless the dust causes or contributes to a public nuisance in violation of OAC Rule 3745-15-07.

There are several homes near the facility and located on East 4th Street, Glenn Avenue, and Garland Avenue. The haul trucks drag dirt from facility roadways onto East 4th Street, causing re-entrainment of fugitive dust from vehicles using this public street. The fugitive dust emissions have caused a public nuisance, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G).

Since 2006, Northwest District Office ("NWDO") of Ohio EPA received several complaints concerning excessive fugitive dust as a result of mud carry-out from trucks exiting OmniSource's facility onto East 4th Street. Most of the complaints were received from one complainant, who lives within two blocks from the facility.

In response to the complaints, NWDO representatives inspected the facility several times since 2006. Excessive amounts of dried mud were observed to have been deposited on East 4th Street from the trucks exiting the facility. Visible emission ("VE") readings were conducted, using USEPA Reference Method 22, along East 4th Street near the facility's exit. On four days, the dust emissions were visible for more than 6 minutes within a 60-minute observation period. NWDO also collected evidence of the public nuisance, including pictures, videos, and surveys.

An NOV letter of March 31, 2006, from NWDO cited OmniSource for causing a public nuisance in violation of OAC Rule 3745-15-07, and requested Respondent to submit a compliance plan to control the fugitive dust and subsequently correct the nuisance problem. Respondent's response was received on May 3, 2006.

On April 30, 2008, NWDO distributed a survey to several residences in the neighborhood of OmniSource's facility to verify the nuisance complaints. NWDO received the completed surveys from eight different residents. Five of them are located on Glenn Avenue, two on East 4th Street, and one on Garland Avenue. All residents agreed that Respondent's facility is the source of the dust nuisance. As identified by the residents, the nuisance type included in the survey is threefold: property damage, not able to comfortably enjoy property, and concerns about public safety.

In the survey, the residents indicated that they get dust on their homes and they have to power wash them several times per year. They also indicated that they need to wash their cars more often. Some of the residents indicated that they can't sit outside and enjoy the outdoors the way they would like, and they can't open the windows when the dust can reach their homes. Moreover, it was indicated that dust from the clumps of dirt brought by the trucks onto East 4th Street create a visibility hazard that could cause an accident.

NWDO also believes that the limited visibility caused by the dust emissions on East 4th Street is a safety concern especially considering that there is a railroad track along the west boundary of the facility.

The company's corporate management has taken steps to correct the problems and has been cooperative with NWDO. However, the facility management has shown a confrontational attitude at times during complaint investigations. For instance, on August 18, 2006, the facility manager said "once the dirt and dust leaves our property, we have no further responsibility."

NWDO has not received complaints since August 2008, suggesting that the new control measures at the facility have corrected the nuisance problem. Respondent is currently using the following dust control measures:

- A Sentinel Vacuum Sweeper to remove dirt from paved haul roads at the facility and from East 4th Street;
- Two tire grate systems to remove mud attached to the tires of the trucks before exiting the facility;
- Asphalt grindings to cover unpaved haul roads;
- A water truck to water unpaved haul roads; and
- Concrete paving of additional segments inside the facility.

Since February 2006 and until August 2008, Respondent has caused a public nuisance, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G).

St. Marys Division

OmniSource's St. Marys facility ("the facility") is located at 4575 CR 33A, St. Marys Township, Auglaize County, Ohio. It is a metal scrap recycling facility that processes both ferrous and non-ferrous metals. The vast majority of the material enters and leaves the facility by heavy trucks. The metals are sorted on site and then resold to the steel industry and foundries. The facility is located in a non-Appendix A area of OAC Rule 3745-17-08.

Respondent purchased the St. Marys facility from St. Marys Iron & Steel Corporation in 1989. The processes and activities conducted by St. Marys Iron & Steel Corporation included the use of conventional torches to cut various scrap metal commodities. Respondent continued to use the conventional torch cutting process after purchasing the business and facility from St. Marys Iron & Steel Corporation. OmniSource began utilizing a jet torch on or around March 2003.

Since June 28, 2004, NWDO received several complaints concerning the torch cutting plume as well as a few recent fires that the fire department was called out on. In response to the complaints, NWDO inspected the facility, and it was determined that OmniSource held no permits for the jet torch.

On December 14, 2005, NWDO sent a letter to OmniSource. The letter stated that NWDO determined that the torch is an "air contaminant source," and, therefore, Respondent is required to apply for the appropriate permits in accordance with former OAC Rules 3745-31-02 and 3745-35-02.

On May 11, 2006, NWDO sent a NOV to OmniSource. The NOV stated that the change to use a jet torch in March 2003, constituted a "modification" to the operation as defined in OAC Rule 3745-31-01(PPP). Therefore, OmniSource violated former OAC Rules 3745-31-02 and 3745-35-02 by installing and operating the jet torch prior to obtaining a PTI and PTO. The NOV also requested OmniSource to control emissions from this operation such that visible emissions do not exceed 20% opacity as a 3-minute average. The PTI application was received on May 19, 2008, and the PTIO was issued on August 6, 2009.

On December 21, 2006, OmniSource met with NWDO, and OmniSource indicated that a budget had been approved for a portable 3-sided enclosure with a baghouse for the jet torch. The portable 3-sided enclosure with a baghouse became operational on December 2008.

The fires created by OmniSource as a result of the torch cutting process are considered open burning, in violation of OAC Rule 3745-19-04 and ORC § 3704.05(G).

OmniSource failed to apply for and obtain a PTI prior to the installation of the jet torch in 2003, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G). OmniSource failed to apply for a PTO prior to the operation of the jet torch which was installed in 2003, in violation of OAC Rule 3745-35-02 and ORC § 3704.05(G).

OmniSource failed to employ Best Available Technology ("BAT") to the jet torch operations, in violation of OAC Rule 3745-31-05(A)(3) and ORC § 3704.05(G).

Some of the complaints NWDO received were concerning the carry-out of mud from OmniSource's facility onto CR 33A and the generation of fugitive dust by trucks.

On March 5, 2007, OmniSource informed NWDO that it was in the process of installing a mechanical tire thumper device at the facility as well as installing a road sweeper attachment to OmniSource's front-end loader. It was also indicated that new concrete paving had been placed near the scale at the entrance/exit to the facility, and the cost of the new concrete was approximately \$100,000.

OmniSource caused a public nuisance by generating excessive fugitive dust emissions as a result of the mud carry-out from its facility to the public road, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G). No penalty was assessed for the nuisance violations because the nuisance violations were not cited explicitly in any NOV.

OmniSource failed to apply for a PTO for its facility roadways and parking areas, in violation of OAC Rule 3745-35-02 and ORC § 3704.05(G). A PTO application was

received from Omnisource on May 19, 2008, and the PTIO was issued on August 6, 2009.

NWDO has not received complaints since March 2009, suggesting that the new control measures at the facility corrected the nuisance problem.

Mansfield Division

The Mansfield facility ("the facility") is located at 1500 Old Bowman Street, Mansfield, Richland County, Ohio. This location is in an Appendix A area of OAC Rule 3745-17-08. This metal scrap recycling facility processes both ferrous and non-ferrous metals. Scrap metal is received by truck, rail, and through public drop-off. The metals are sorted on site and then resold to the steel industry and foundries.

The day-to-day activities at the facility directly impact Old Bowman Street, the paved, public street on which the facility is located. The metal is hauled to and from the facility, mainly in large, open-bed trucks. These trucks have been responsible for dragging dirt from OmniSource's facility to Old Bowman Street. Fugitive dust is generated from traffic on the road.

Since August 2, 2004, NWDO has received 25 complaints concerning the fugitive dust as a result of the mud carry-out from OmniSource's Mansfield facility onto Old Bowman Street.

On five different dates, NWDO recorded high VE readings using U.S. EPA Method 22, which were in violation of OAC Rules 3745-17-07(B)(4) and 3745-17-07(B)(5), and ORC § 3704.05(G).

Since August 2008, NWDO observed that OmniSource had not employed reasonably available control measures ("RACM") to prevent fugitive dust from becoming airborne at its facility, in violation of OAC Rule 3745-17-08(B) and ORC § 3704.05(G), on eight different days.

NWDO sent several NOV letters to OmniSource since August 2004. The NOV letters cited OmniSource with the following violations:

- Violations of OAC Rule 3745-17-07(B)(4) for visible particulate emissions from a paved roadway (Old Bowman Street) in excess of six minutes during any sixty-minute observation period.
- Violations of OAC Rule 3745-17-07(B)(5) for visible particulate emissions from an unpaved roadway or parking area in excess of thirteen minutes during any sixty-minute observation period.
- Violations of OAC Rule 3745-17-08(B)(2) for failure to periodically apply water or other suitable dust suppression chemicals on dirt/gravel roads and other surfaces which can cause emissions of fugitive dust.

- Violations of OAC Rule 3745-17-08(B)(9) for failure to promptly remove earth or other material from paved streets.
- Violations of OAC Rule 3745-17-08(B)(7) for failure to cover open-bodied vehicles when transporting materials likely to become airborne.
- Violations of OAC Rule 3745-15-07 for creating public nuisances as a result of not employing RACM. These violations were first cited in the NOV letter of March 14, 2006.

OmniSource's final compliance plan was received on September 18, 2007 as part of OmniSource's response to the NOV of May 25, 2007. The compliance plan included the following:

- Order new street sweeper (\$138,000).
- Add new 20,000 square feet concrete surfaces to the southeast corner of the facility (\$192,000).
- Improve the drainage system within Old Bowman Street (\$12,000).
- Design and fabricate a mud grate/tire thumper to facilitate the removal of mud from truck tires prior to exiting the facility (\$32,000).
- Survey drainage ditch elevations and clean to facilitate proper site drainage (\$15,000).
- Install drainage system within the facility to facilitate proper site storm water collection (\$41,000).
- Install approximately 18,500 square feet of new concrete roadways within Old Bowman Street (\$121,000).
- Install approximately 7,200 square feet of new concrete parking areas between Old Bowman Street and existing office building (\$27,000).
- Install approximately 10,000 square feet of concrete surface around the existing maintenance building (\$109,000).
- Install approximately 35,000 square feet of new concrete surface on facility drives and parking area around the non-ferrous warehouse and maintenance garage (\$225,000).

Since August 2008, NWDO has not received complaints, suggesting that the new control measures at the facility corrected the nuisance problem.

OmniSource failed to apply for a PTI when the auxiliary yard was acquired in 1990, in violation of former OAC Rules 3745-31-02 and 3745-35-02, and ORC § 3704.05(G).

During a post-inspection meeting on May 3, 2007, OmniSource explained that five years ago (2004) the amount of scrap processed increased from 8,000 tons per day to 40,000 tons per day. This change is considered to be a "modification" of the roadways and parking areas that would have increased fugitive particulate emissions and would have required new PTI and PTO applications. As a result, Respondent violated former OAC Rules 3745-31-02 and 3745-35-02, and ORC § 3704.05(G).

The PTI/PTO applications were received by NWDO on October, 25, 2007, and the final PTI was issued on January 10, 2008.

On November 8, 2007, August 11, 2008, and May 4, 2009, NWDO submitted Enforcement Action Requests to Central Office for the violations that occurred at the Lima Division, the St. Marys Division, and the Mansfield Division, respectively.

Action: On November 23, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to OmniSource to attempt an administrative settlement of the violations at the three facilities. The F&Os propose to require OmniSource to do the following:

- (1) Apply dust suppressants on all unpaved roads and other unpaved surfaces with vehicle traffic at the three facilities to minimize or eliminate fugitive dust emissions, in accordance with the program specified therein;
- (2) Maintain the records specified in the F&Os relating to the dust suppressant application program for unpaved roads and other unpaved surfaces with vehicle traffic at the three facilities;
- (3) Employ watering and vacuum sweeping measures on all paved roads and other paved surfaces with vehicle traffic at all three facilities to minimize or eliminate fugitive dust emissions, in accordance with the program specified therein;
- (4) In case of necessary changes to the dust control programs for unpaved and paved roads and other surfaces with vehicle traffic at all three facilities, follow the procedures outlined in the F&Os;
- (5) Continue to operate and maintain the tire thumpers at all three facilities in accordance with the specified program therein; and

- (6) Pay Ohio EPA a civil penalty of \$325,600 within 14 days after the effective date of the F&Os, of which \$65,120 is due to the Ohio EPA Clean Diesel School Bus Program Fund as a SEP.

The total civil penalty of \$325,600 is based upon the sum of the individual penalties for each facility. The individual penalties are \$21,000 for the Lima Division, \$94,937 for the St. Marys Division, \$56,365 for the Mansfield Division, and a combined size of violator penalty of \$153,333.

Case Continued



Case Number: 2820	Dates:
Entity: Bailey-PVS Oxides Delta LLC.	EAR: 04/27/09
Field Office: NWDO	DWL: N/A
Contact: Jim Kavalec/Tom Kalman	F&Os: 11/23/09 (prop.)
Attorney: Marcus Glasgow	Referral: N/A
	Dismissal: N/A

Background: Bailey-PVS Oxides Delta LLC. ("Bailey") owns and operates an iron oxide reclamation and hydrochloric acid ("HCl") regeneration facility located at 6191 County Road 10, Delta, Fulton County, Ohio. Bailey receives waste pickle liquor from facilities that pickle sheet metal with HCl. The waste pickle liquor consists of a diluted HCl solution which also contains iron oxide residuals. Bailey separates and reclaims the iron oxide residuals for resale and rejuvenates the HCl to be sold to the steel industry.

On March 11, 1998, Ohio EPA issued PTI 03-0999 for emissions units at the facility, which included the HCl regeneration plant and its natural gas roaster, identified by Ohio EPA as emissions unit P002. For emissions unit P002, the terms and conditions of PTI 03-0999 require compliance with a chlorine ("Cl₂") emissions limitation of 1.6 parts per million by volume ("ppmv") and a HCl emissions limitation of 9.7 ppmv. On June 2, 2005, Bailey submitted a permit modification for emissions unit P002 to Ohio EPA in which it requested the emissions limitations for both HCl and Cl₂ be increased to 25 ppmv. Ohio EPA has preliminarily agreed to new emissions limitations of 20 ppmv for HCl and 25 ppmv for Cl₂ but has yet to formally approve the June 2, 2005 modification request.

On March 5, 2007, Ohio EPA conducted an inspection of the facility. Ohio EPA observed that Bailey had installed and was operating an outside iron oxide storage area and a truck load-out operation without first obtaining a PTI and permits to operate ("PTOs"), respectively, in violation of former OAC Rules 3745-31-02 and 3745-35-02 and ORC § 3704.05(G). On March 29, 2007, a notice of violation ("NOV") letter was sent to Bailey by Ohio EPA. On May 1, 2007, Bailey submitted a PTI application for the truck load-out operation; however, the application was considered incomplete by Ohio EPA and was returned to Bailey.

On June 18, 2008 and February 26, 2009, Ohio EPA conducted compliance inspections at the facility and noted that Bailey had made progress eliminating the outside storage of iron oxide; however, some iron oxide remained outside. In addition, Ohio EPA noted that Bailey continued to operate the truck load-out operation. Therefore, Bailey has continued to operate the outside storage area for iron oxide and the truck load-out operation prior to obtaining a Permit-to-Install-and-Operate ("PTIO"), in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

On June 21, 2007, Bailey conducted a stack test for emissions unit P002. The average emissions concentrations for this test were 16.90 ppmv for HCl and 80.6 ppmv for Cl₂, in violation of the limitations in PTI 03-0999 and ORC § 3704.05(G). NOV letters for these violations were sent to Bailey by Ohio EPA on August 24 and 27, 2007.

On February 7, 2008, Bailey conducted another stack test for emissions unit P002. The average emissions concentrations for this test were 10.49 ppmv for HCl and 5.06 ppmv for Cl₂, in violation of the limitations in PTI 03-0999 and ORC § 3704.05(G). A NOV letter for these violations was sent to Bailey by Ohio EPA on April 17, 2008.

In a letter dated April 28, 2009, Ohio EPA requested Bailey submit an update on the removal of the iron oxide from the outside storage area. No response was received to Ohio EPA's request.

On April 27, 2009, Ohio EPA's Northwest District Office ("NWDO") submitted an Enforcement Action Request to Central Office for the violations.

Action: On November 23, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Bailey to attempt an administrative settlement of the violations. The F&Os propose to require Bailey to submit complete and approvable PTIO applications to Ohio EPA for the outside iron oxide storage area and the truck load-out operation. The F&Os also propose to require Bailey to pay a civil penalty of \$112,000, of which \$76,400 would be due to Ohio EPA within 30 days after the effective date of

the F&Os; \$22,400 would be due to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP within 30 days after the effective date of the F&Os; and \$15,000 would be directed toward the performance of a pollution prevention study of the facility as a SEP to be completed within about one year after the effective date of the F&Os.

The civil penalty component for "amount above standard" was based on the 80.6 ppmv tested value for Cl₂ and an allowable of 25.0 ppmv, which is the preliminarily agreed upon value to replace the 1.6 ppmv limitation in the current PTI.

Case Continued



ACTIONS & MINUTES APPROVED BY:



Bob Hodanbosi, Chief, DAPC

NEXT MEETING:

December 17, 2009
3:00 p.m.
DAPC Room C

PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (97)

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2527	Carmeuse Lime, Inc., Maple Grove Facility (HPV)	NWDO	DV/UD	11/05/02	06/19/06
2638	Fairport Yachts, LTD (multi-media)	NEDO	MG/PP	01/27/98	07/02/07
2671	Mar-Zane, Inc. (Plant #1)	CDO	MG/JJP	12/11/06	10/25/07
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2685	Quickrete - Cleveland Plant	Akron	DV/UD	10/17/07	12/14/07
2687	Cast Fab Technologies	HAMCO	BZ/TT	04/25/05	12/17/07
2691	Unique Finishers, Inc., D & S Coating, and Binks Coating (all 3 formerly L & C, Inc.)	RAPCA	BZ/PP	06/29/06	12/28/07
2693	Ameriseal Restoration LLC	Akron	DV/FU	04/26/07	10/26/07
2698 (112r)	Sugar Creek Packing Co.	N/A	DV/SS	01/03/08	01/31/08
2701 (VC)	City of Dayton, Advanced Wastewater Treatment Facility	RAPCA	BZ/JK	02/19/08	02/19/08
2708	Dave Sugar Excavating, Inc.	SEDO	DV/MM	03/13/05	02/04/08
2713	Quality Ready Mix	NWDO	BZ/PP	12/21/06	04/10/08
2719 (112r)	Sugar Creek Packing Co. (Dayton)	N/A	DV/SS	03/26/08	04/28/08
2722	Tuscarwas County YMCA, M-Cor Inc., Raeder Construction, et al.	SEDO	BZ/UD	12/20/07	05/05/08
2723	Cognis Oleochemicals, LLC (HPV)	HAMCO	DV/PP	01/03/07	05/19/08
2725	Hosea Project Movers, LLC (asbestos)	HAMCO	SF/TT	05/06/07	05/16/08
2726	Glick Real Estate LTD/AI-Type Demolition and Excavating (asbestos)	Canton	BZ/FU	05/19/06	05/19/08
2731 (112r)	H. B. Fuller Company	N/A	DV/KJ	03/26/08	06/04/08
2739	BP - Husky Refining LLC	TDES	BZ/JJP	08/01/07	07/18/08
2744	The Afco Group (asbestos)	NEDO	BZ/JK	02/14/08	08/06/08
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2750 (VC)	New Day Farms, LLC / Henning Construction Company	CDO	SF/JJP	08/21/08	08/21/08
2752	Allied Corporation (Plant #75)	Akron	MG/JJP	01/29/05	09/02/08
2760	Precision Environmental Company	Akron	SF/PP	08/06/08	10/22/08
2775	Selvey's Dirt Works / Famous Supply (asbestos)	NWDO	DV/UD	06/12/08	11/05/08

Updated: 12/03/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08
2781	Great Lakes Crushing, Ltd. (asbestos)	NEDO	SF/PP	06/18/08	11/18/08
2782	International Converter, Inc. - Caldwell (HPV)	SEDO	DV/FU	07/05/08	11/26/08
2783	Evonik Degussa Engineered Carbons Corporation (HPV)	SEDO	MG/TT	03/17/08	11/26/08
2784	Reichert Excavating, Inc. (asbestos)	CDO	SF/EY	06/12/08	12/04/08
2789	Complete Clearing, Inc. (asbestos)	NWDO	MG/PP	07/09/08	02/05/09
2790	Erie Materials, Inc.	NWDO	SF/TT	04/16/08	02/05/09
2791	Carmeuse Lime, Inc. (Millersville) (HPV)	NWDO	DV/FU	02/14/06	02/09/09
2793	Combs' Trucking Incorporated	HAMCO	SF/MM	07/16/08	02/09/09
2794	Kenmore Construction Co., Inc.	Akron	DV/IUD	05/14/08	02/13/09
2795	Evans Landscaping, Inc.	HAMCO	MG/TT	05/01/08	02/23/09
2799	Convenient Food Mart, Inc., No. 391	NEDO	SF/EY	10/21/08	02/24/09
2803	Wheeling Brake Band & Friction Mfg., Inc./Investment Capital of America, Inc./Rob Burgess Enterprises, LLC (asbestos) (multi-media case, DSIWM lead)	SEDO	DV/PP	01/13/09	02/26/09
2806	Ramon Patel, d.b.a. Marathon Quick Mart	NEDO	DV/JK	10/21/08	03/02/09
2808	Randy Wise	NWDO	SF/FU	11/05/08	03/20/09
2810	Ellwood Engineered Castings Co. (HPV)	NEDO	DV/TT	02/25/09	03/13/09
2811	NewKor, Inc.	Cleve.	SF/EY	01/27/09	03/30/09
2813	ConSun Food Industries, Inc. (Convenient Food Mart #746)	NEDO	DV/JK	08/08/08	03/27/09
2814	Barrett Paving Materials, Inc. (HPV)	HAMCO	SF/PP	01/16/08	04/01/09
2815	Royal Sebring Properties, Inc., a.k.a. Zee Tech Warehousing	M-TAPCA	MG/JK	09/17/07	04/02/09
2816	Republic Engineered Products, Inc. (HPV)	NEDO	DV/	11/13/07	04/16/09
2817	S.H. Bell Company	NEDO	MG/TK	01/16/08	04/21/09
2819	Masonic Temple/The New Victorians, Inc./AHC, Inc. (asbestos)	CDO	DV/	01/24/08	04/27/09
2820	Bailey PVS Oxides Delta, L.L.C.	NWDO	MG/JK	03/29/07	04/27/09
2821	OmniSource Corporation, Mansfield Division	NWDO	MG/MM	05/08/08	05/04/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2822	J. S. Paris Excavating, Inc./Signature Development Group, LLC (asbestos)	MTAPCA	SF/TT	03/11/08	04/28/09
2823	Rudzik Excavating, Inc./Charles J. Arendas (asbestos)	MTAPCA	DV/FU	02/27/09	05/11/09
2824	Ariel Corporation (HPV)	CDO	MG/EY	04/02/08	05/18/09
2825	El Ceramics LLC	HAMCO	SF/JK	03/11/08	05/08/09
2826	Staker Alloys, Inc.	RAPCA	DV/FU	11/14/07	05/29/09
2827	Evelyn M. (Burger) Koch (asbestos)	MTAPCA	MG/UD	07/21/08	06/01/09
2829(VC)	ODNR, Division of Forestry (regarding the Shawnee State Forest open burning)	Ports.	DV/JP	04/24/09	06/03/09
2830	Barberton Steel Industries, Inc.	Akron	MG/MM	08/21/08	06/16/09
2833	Veterans of Foreign Wars Post 6519 (asbestos)	Lake Co.	DV/TT	04/29/08	06/22/09
2834	Foti Contracting, LLC	Akron	MG/FU	10/23/08	06/29/09
2835	Elyria Foundry Company (HPV)	NEDO	SF/PP	10/18/07	07/13/09
2836	Uni-Mart, Inc. (#04767, #04768, #74775)	NEDO	DV/JK	11/10/08	07/13/09
2839	Liberty Gas USA, LLC (Middle Avenue GDF in Elyria and Clark Oil 1163 in Lorain)	NEDO	DV/JK	07/07/09	07/21/09
2840	Von Vittersan Le Copla USA LLC Delaware Corporation (asbestos)	MTAPCA	MG/UD	07/03/08	07/23/09
2841	Salvatore Sorice/Michael A. Kernan (asbestos)	MTAPCA	SF/MM	03/13/09	07/27/09
2842	Duff Quarry, Inc.	SWDO	DV/EY	07/13/09	07/28/09
2844	Iten Industries, Inc. (Plant 1) (HPV)	NEDO	SF/MM	04/18/08	07/28/09
2845	Blackhawk Automotive Plastics, Inc. (FER case)	HAMCO	DV/TT	06/06/08	07/28/09
2847	Ultimate Building Systems, Ltd.	HAMCO	SF/FU	04/29/08	08/03/09
2848	Sandusky Dock Corporation	NWDO	BZ/JO	07/27/08	08/06/09
2849	Dean Calhoun/Tim Gearhart (asbestos)	NWDO	DV/MM	03/27/09	08/11/09
2850	Yochman Excavating, Inc. (open burning)	M-TAPCA	MG/PP	03/23/09	08/05/09
2852	AOHV Corporation/Hasper Leggett (asbestos)	M-TAPCA	DV/UD	03/25/09	08/11/09
2853	Valentine Contractors, Inc.	Akron	MG/TT	05/30/08	08/17/09
2854	Ohio Turnpike Commission (Vermillion Valley and Middle Ridge Service Plazas)	NEDO	SF/JK	05/19/09	09/03/09

PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JJK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (East Erie St. GDF in Lorain)	NEDO	SF/JJK	09/09/09	09/22/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	408 Water Street Corporation, d.b.a. Concord Sunoco, Cooke's Car Care, Incorporated, and Munson Corners Sunoco	NEDO	MG/JJK	07/20/09	09/17/09
2860	Richard C. Zahn	Akron	SF/PP	06/15/09	09/14/09
2861	Scott Klem	Akron	DV/TT	08/14/09	09/14/09
2864	Forest Creek Mobile Home Park	HAMCO	SF/FU	03/19/09	09/25/09
2865	Great Lakes Construction Co.	HAMCO	DV/UD	05/07/09	09/25/09
2866	3M Medina (HPV)	Akron	MG/PP	08/27/09	09/29/09
2867 (VC)	ODNR, Division of Forestry (regarding another Shawnee Forest open burning)	Ports.	SF/JP	04/02/09	09/02/09
2869	Bridgestone APM Company, Foam Products Division (HPV)	NWDO	DV/EY	02/11/08	10/06/09
2870	Simon Excavating	NWDO	MG/		10/15/09
2871	Ali Mohammad, d.b.a. Marathon Oil 2992	NWDO	SF/JJK	05/12/09	10/15/09
2872	Piper Excavation (asbestos and open burning)	NWDO	DV/JJK	11/24/08	11/03/09
2873	Hanani Marathon - Superior	Cleve.	MG/EY		11/04/09
2874	Ron Smith	NWDO	SF/		11/09/09
2875	Belle-Aire Cleaners	Akron	DV/		11/13/09
2876	Robert Schiekh	TDES	MG/EY	08/04/09	11/24/09
2877	Murphy Oil USA, Inc. (GDFs #6630, #7294, and #7371)	NEDO	SF/JJK	07/27/09	11/30/09
2878	Pexco Packaging Corp.	TDES	DV/EY	03/13/09	12/01/09
2879 (112f)	City of Youngstown Wastewater Treatment Plant	N/A	MG/SS		12/04/09
2880	Prime Properties Limited Partnership, d.b.a. Prime #5	Cleve.	SF/EY		12/07/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

January

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
Total for the month of January = 0													

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

February

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2736	Emanuel Hadigeorgiou d.b.a. Society Dry Cleaners	3	Cleve.	JP	EY	DV	07/03/08						02/12/09
2747	Tri-county Concrecre Co., Inc.	1	Akron	TK	MM	DV	08/19/08			Closed - NFA	02/12/09		
2762	Copley Fairlawn City Schools (E-check)	3	N/A	JP	JP	DV	10/01/08					02/11/09	
2768	Orange Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					02/06/09	
2659	Steve Jones and George Webber (asbestos)	1	NEDO	TK	FU	DV	08/31/07			Closed - NFA	02/26/09		
2728	Protec Pac	1	SWDO	JP	EY	MG	05/21/08			Closed - NFA	02/26/09		
2759	Kay Enterprises, Inc., d.b.a. Waste Removal Equipment	3	Akron	TK	UD	MG	10/21/08			Unilateral		02/26/09	

Total for the month of February = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

March

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2650	Duer Construction Company	3	Akron	TK	MM	SF	07/23/07						03/13/09
2757	N-Viro International Corporation	3	TDES	JP	EY	SF	10/10/08					03/24/09	
2758	Brush Wellman, Inc.	3	NWDO	TK	MM	DV	10/15/08					03/24/09	
2769	Tallmadge Board of Education (E-check)	3	N/A	JP	JP	DV	10/01/08					03/23/09	
2785	Miller Garage Door Company	3	Akron	TK	MM	DV	12/09/08			Unilateral F&Os		03/13/09	

Total for the month of March = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

April

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2639	Keim Lumber Company, Inc.	3	NEDO	TK	UD	SF	07/02/07					04/09/09	
2755	Liberta Construction Company	3	Akron	TK	FU	MG	09/15/08					04/09/09	
2724	Moser Construction Company, Inc.	3	Akron	TK	MM	MG	05/19/08						04/10/09
2746	Steel Structures of Ohio, LLC	1	Akron	TK	MM	SF	08/19/08		10/15/08 (DWL)	Closed - NFA	04/23/09		
2765	Lagrange Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					04/15/09	
2773	George Rank	3	NWDO	TK	FU	MG	10/27/08			Unilateral F&Os		04/16/09	
2792	Grand Avenue Realty Corporation, d.b.a. DLH Plating, and Clean CEMP (asbestos)	3	CDO	JP	EY	MG	02/10/09						04/13/09

Total for the month of April = 7

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

May

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2753	Richard Morrow	3	NEDO	TK	PP	SF	09/08/08			Unilateral F&Os		05/01/09	
2802	James Brown	3	RAPCA	TK	UD	SF	03/13/09						05/01/09
2763	Deerfield Township Trustees (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2766	Lorain County Regional Transit Authority (E-check)	3	N/A	JP	JP	DV	10/01/08					05/15/09	
2780	Magnesium Elektron North America, Inc.	3	NWDO	TK	JK	MG	11/17/08					05/14/09	
2804	Tim Davidson	3	SWDO	JP	EY	MG	03/18/09					05/21/09	

Total for the month of May = 6

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

June

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2654 VC	Shaw High School (City of East Cleveland)	3	Cleve.	JP	JP	SF	08/16/07			Dismissed	06/18/09		
2692	Production Paint Finishers, Inc. (HPV)	3	RAPCA	JP	EY	MG	12/28/07					06/18/09	
2741	Plasti-Kote Company, Inc. (HPV)	3	Akron	TK	JK	MG	07/14/08					06/17/09	
2770	Village of Gloria Glens (E-check)	3	N/A	JP	JP	DV	10/01/08					06/18/09	
2797	T. S. Trim, Inc. (HPV)	3	CDO	JP	EY	SF	03/02/09					06/17/09	

Total for the month of June = 5

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2742	Gas and Oil Inc. (GDFs 2, 3, 7, 15, & 19)	3	Akron	TK	TT	SF	07/13/08						06/26/09
2771	Village of North Randall (E-check)	3	N/A	JP	JP	DV	10/01/08					06/30/09	
2798	Canary Cleaners	1	TDES	JP	EY	MG	03/03/09			Closed-NFA	07/02/09		
2828	Leroy and Judith Schaffer	3	SWDO	JP	EY	SF	06/08/09			Unilateral F&O's		06/30/09	
2695	Precision Aggregates III, LLC	3	NWDO	TK	UD	BZ	01/14/08					07/08/09	
2772	Village of Oakwood (E-check)	3	N/A	JP	JP	DV	10/01/08					07/07/09	
2805	Thomas McMinn, d.b.a. Wellington Citigo	1	NEDO	TK	JK	SF	02/26/09			Closed-NFA	07/16/09		
2809	Procecx, Ltd.	3	Akron	TK	MM	MG	03/16/09						07/07/09

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

July

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2831	Aleris International, Inc./IMCO Recycling of Ohio, Inc./ Commonwealth Aluminum Concast of Ohio, Inc.	3	SEDO	TK	TK	MG	06/19/09						07/07/09
2712	Cleveland Trencher Company	3	Cleve.	JP	EY	DV	03/24/08						07/14/09

Total for the month of July = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

August

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2761	Cleveland Board of Education (C-check)	3	N/A	JP	JP	DV	10/01/08					08/11/09	
2764	Homer Township Trustees (E-Check)	1	N/A	JP	JP	DV	10/01/08			Closed-NFA	08/13/09		
2787	Airstream, Inc.	3	SWDO	JP	EY	SF	01/09/09					08/11/09	
2788	Gas Express, Inc.	3	Akron	TK	JK	DV	01/27/09						08/12/09
2832	United Tool and Machine	1	SWDO	JP	EY	SF	07/01/09		8/4/09 (DWL)	Closed-NFA	08/13/09		
2704	Gallo's Convenient Market	1	Cleve.	JP	EY	SF	03/05/08			Closed-NFA	08/13/09		
2732 VC	Ohio DNR, Division of Forestry (for open burning permit 07-30)	3	Ports	JP	JP	MG	05/14/08			Closed-NFA	08/14/09		
2807	Hishan Judi, d.b.a. Avon Lake Shell	3	NEDO	TK	JK	MG	03/16/09						08/19/09
2812	Saif Khan, d.b.a. Lakeland Valero	3	NEDO	TK	JK	MG	03/25/09					08/20/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

August

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2846	Joseph Parker	3	SWDO	JP	EY	MG	08/03/09			Unilateral F&O's		08/18/09	

Total for the month of August = 10

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2666	James Conley	1	Akron	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&O's		09/22/09	
2754	Lepi Enterprises, Inc. (asbestos)	3	SEDO	TK	TT	DV	09/12/08					09/08/09	
2756	Pioneer Environmental Systems, Inc. (asbestos)	3	NWDO	TK	JK	BZ	10/03/08					09/22/09	
2774	Total Environmental Services, LLC (asbestos)	3	SEDO	TK	TT	SF	10/29/08					09/17/09	
2796	Speedway SuperAmerica, LLC (#3648 and #9975)	3	NEDO	TK	JK	SF	02/24/09					09/22/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

September

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2862	Speedway SuperAmerica, LLC (#1183 and #5110)	3	HAMCO	TK	JK	SF	05/21/09					09/22/09	
2818	Mac Trailer Manufacturing, Inc.	1	Canton	TK	MM	SF	04/07/09		06/17/09 DWL	Closed - NFA	09/24/09		
2838	Englefield, Inc., d.b.a. Ashtabula Duchess	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed - NFA	09/24/09		

Total for the month of September = 9

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

October

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2696	Eramet Marietta, Inc	3	N/A	TK	KJ	BZ	01/18/08					10/07/09	
2837	Flying J. Inc. (Austinburg Truck Stop)	3	NEDO	TK	JK	MG	07/08/09						09/29/09
2710	Stein, Inc.	3	Cleve.	JP	EY	BZ	03/14/08					10/13/09	
2851	Joseph and Marie Eberz	3	Akron	TK	JK	SF	08/10/09					10/19/09	

Total for the month of October = 4

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Director's F&O's	Referred to AGO
2776	Circle K Midwest (GDFs 5204, 5209, 5318 amd 5320)	3	NEDO	TK	JK	MG	11/04/08					11/04/09	
2863	Circle K Midwest (GDFs 0059, 5217, 5557, and 5558)	3	HAMCO	TK	JK	MG	08/01/09					(11/04/09)	
2868	Endres Processing, LLC	3	NWDO	JP	JP	BZ	10/06/09						11/03/09
2618	TRC Industries, Inc.	1	Akron	TK	MM	SF	05/04/07			Closed-NFA	11/19/09		
2657	Environmental Affairs Management, Inc.	3	MTAPCA	TK	FU	SF	08/17/07						11/13/09
2679	S. R. Restaurant Corporation, d.b.a. Rascal House Pizza (asbestos)	3	Cleve.	JP	EY	BZ	12/04/07					11/12/09	

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

November

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2748	Great Plains Exploration	3	NEDO	TK	UD	BZ	08/27/08					11/12/09	
2779 (112r)	Sunoco, Inc., Toledo Refinery	3	N/A	TK	KJ	DV	11/14/08					11/12/09	
2843	Bruewer Woodwork Mfg. Co. (FER case)	1	HAMCO	TK	UD	MG	07/28/09			Closed-NFA	11/19/09		

Total for the month of November = 9

Summary of the Final Disposition of Air Enforcement Committee Cases Processed During Calendar Year 2009

December

Docket #	Case Name	Rank	Field Office	EC Contact	Staff	Att.	Complaint Referral	Returned to FO	Warning Letter	Status	Source in Compliance	Direcor's F&O's	Referred to AGO
2707	Thermo-Rite Manufacturing Co.	3	Akron	TK	UD	MG	03/12/08					12/02/09	
2786	D & R Supply, Inc.	3	NEDO	TK	UD	MG	12/24/08					12/02/09	
2800	Gary Rogers, d.b.a. Rogers Sunoco	3	NEDO	TK	JK	DV	02/24/09						11/30/09
2801	Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell	3	NEDO	TK	JK	MG	02/25/09						11/30/09

Summary of Compliance with Effective Findings and Orders

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Ball & Sons Construction (11/08/96)	Civil penalty: (\$1,000.00)	563513	11/22/96	Y	FSC**

Smith Foundry & Machine Co. (12/31/96)	Civil penalty: (\$25,000.00)				
	\$5,000.00	530404	01/31/97		01/23/97
	\$5,000.00	530405	01/31/98		01/23/98
	\$5,000.00	530406	01/31/99		01/19/99
	\$5,000.00	530407	01/31/00	Y	ACT**
	\$5,000.00	541831	01/31/01	Y	ACT**
	AC		01/15/97		N/A*
	IC		06/16/97		N/A*
	CC		08/15/97		N/A*
	Conduct emission tests - submit results		10/15/97		N/A*
* The cupola has been removed. The 12/96 F&O's were revised to reflect the installation of electric induction furnaces rather than controls for the cupola.					

Mark Fuerst (02/08/00)	Civil penalty (\$10,000.00)				
	to ODNR \$2,000.00	606212	03/08/00	Y	FSC**
	to OEPA \$2,000.00	172154	04/08/00	Y	*
	\$2,000.00	172155	05/08/00	Y	FSC**
	\$2,000.00	172156	06/08/00	Y	FSC**
	\$2,000.00	172157	07/08/00	Y	FSC**
* Paid \$1,654 on 2/10/09. \$165.40 of that amount was paid to AGO.					

American Environmental Abatement Company, Inc. (12/29/00)	Civil penalty: (\$2,500)				
	to OEPA \$2,000	206005	01/12/01		01/16/01
	to ODNR \$500	564224	01/29/01	N	

Anco Properties (06/19/01)	Civil penalty: (\$23,000)				
	to OEPA \$4,600	224714	09/19/01	Y	FSC**
	\$4,600	224715	12/19/01	Y	FSC**
	\$4,600	224716	03/19/02	Y	FSC**
	\$4,600	224717	06/19/02	Y	FSC**
	to ODNR \$4,600	613129	07/19/01	N	FSC**

Superior Demolition and Excavating (12/28/01)	Civil penalty: (\$15,000)				
	to ODNR \$3,000	270395	01/11/02		01/10/02
	to OEPA \$3,000	270396	01/28/02		02/11/02
	\$3,000	270397	02/28/02		03/14/02
	\$3,000	270398	03/28/02		04/23/02
	\$3,000	270399	04/28/02	Y	UNC**

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	Cert. y/n	Completion Date	
Richard and Joby Hackett (04/04/02)	Civil penalty: (\$3,000)					
	to OEPA	\$150	279226	09/04/02	Y	RTN**
		\$150	279227	10/04/02	Y	RTN**
		\$150	279228	11/04/02	Y	RTN**
		\$150	279229	12/04/02	Y	RTN**
		\$150	279230	01/04/03	Y	RTN**
		\$150	279231	02/04/03	Y	RTN**
		\$150	279232	03/04/03	Y	RTN**
		\$1,350	279233	04/04/03	Y	RTN**
	to ODNR	\$150		05/04/02		
	\$150		06/04/02			
	\$150		07/04/02			
	\$150		08/04/02			

Schloss Materials Company (09/18/02)	Civil penalty: (\$6,000)					
	to OEPA	\$4,000	304257	10/02/02		09/30/02
	to ODNR	\$2,000	564243	10/18/02	N	
	pave entrance & access road to facility		10/31/02		06/03/04*	
* CDAQ inspection date						

City of Oregon (09/16/02)	Civil penalty: (\$10,000)					
	to OEPA	\$8,000	304256	09/30/02		09/30/02
	to ODNR	\$2,000	564249	09/30/02	N	
	conduct asbestos fire training		02/01/03		01/8-14-15&29/03	

Cleveland Industrial Drum Service, Inc. (10/30/02)	Civil penalty: (\$1,000)					
	to OEPA	\$800	314152	11/13/02		06/24/03
	to ODNR	\$200	564255	11/30/02	N	

M & J Excavating (11/27/02)	Civil penalty: (\$2,450)					
	to ODNR	\$490	564257	12/27/02		09/25/02
	to OEPA	\$392	333074	01/27/03	Y	09/27/03
		\$392	333075	02/27/03	Y	10/25/03*
		\$392	333076	03/27/03	Y	UNC
		\$392	333077	04/27/03	Y	01/24/04*
	\$392	333078	05/27/03	Y	01/24/04*	

Chris Corso (12/02/02)	Civil penalty: (\$7,000)					
	to OEPA	\$1,600	319940	12/16/02		12/16/02
		\$2,000	319941	03/02/03		09/04/03
		\$2,000	319942	06/02/03		09/27/03
	to ODNR	\$1,400	614162	01/02/03	N	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Goldline Wrecking Co. (12/23/02)	Civil penalty: (\$35,000)				
	to OEPA \$ 8,000	333227	04/23/03		06/30/04*
	\$10,000	333228	12/23/03	Y	10/27/08**
	\$10,000	333229	06/23/04	Y	10/27/08**
	to ODNR \$ 7,000		01/23/03		01/22/03

* The AGO Special Counsel collected \$8,134.92. The AGO kept \$723.13 of that amount.

** Ohio EPA agreed to a payment of \$13,150 to satisfy the remaining claim of \$20,000. Special Counsel received \$4,339.50 and the AGO received \$1,183.50 of the \$13,150 for their collection services.

Glo-Mar Masonry (02/06/03)	Civil penalty: (\$8,500)				
	to ODNR \$1,700	583375	03/06/03	Y	
	to OEPA \$ 500	336723	03/06/03	P	06/23/03
	\$2,100	336724	06/06/03	Y	01/24/04
	\$2,100	336725	08/06/03	Y	04/24/04
	\$2,100	336726	02/06/04	Y	03/26/05* (\$680.60)

* Account Certified to AGO. Three partial payments made totaling (\$680), still owe \$1,419.40

Ford Motor Company, Cleveland Casting Plant (12/24/03)	Civil penalty: (\$40,000)	413303	01/31/04		01/07/04
	Submit modeling analysis		02/29/04		

Minerva Enterprises, Inc. (12/31/03)	Civil penalty: (\$41,125)				
	\$3,500	413351	01/31/04	Y	07/29/04a
	\$3,500	413352	03/02/04	Y	06/16/05b
	\$3,500	413353	04/02/04	Y	08/12/05c
	\$3,500	413354	05/03/04	Y	06/15/05d
	\$3,500	413355	06/03/04	Y	07/22/05e
	\$3,500	413356	07/04/04	Y	08/12/05f
	\$3,500	413357	08/04/04	Y	07/23/04
	\$3,500	413358	09/04/04	Y	12/24/05h
	\$3,500	413359	10/04/04	Y	12/24/05
	\$3,500	413360	11/04/04		07/29/05
\$3,500	413361	12/04/04	Y	11/10/05	
\$2,625	413362	01/04/05	Y	12/05/05i	

a. Paid \$3,501.92, of which \$315.17 was kept by AGO and \$3,186.75 was put into OEPA's account. The remaining \$1.92 is interest charged.

b. Paid \$53.70 to resolve this claim. \$4.83 of that amount was AGO's share. \$48.87 was put in OEPA's account.

c. Paid \$831.54 to resolve this claim. \$74.84 of that amount was AGO's share. \$756.70 was put in OEPA's account.

d. Paid \$3,574.03 to resolve this claim. \$321.66 of that amount was AGO's share. \$3,252.37 was put in OEPA's account.

e. Paid \$2,211.00 to resolve this claim. \$198.99 of that amount was AGO's share. \$2,012.01 was put in OEPA's account.

f. Paid \$3,903.47 to resolve this claim. \$351.31 of that amount was AGO's share. \$3,552.16 was put in OEPA's account.

h. Paid \$3,500 to resolve this claim. \$315 of that amount was AGO's share. \$3,185 was put in OEPA's account.

i. Paid \$1,141.96 to resolve claim. \$102.78 of that amount was AGO's share. \$1,039.18 was put in OEPA's account.

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Hydraulic Press Brick (04/28/04)	Civil penalty: (\$19,000)					
	\$7,000	439209	05/12/04		05/12/04	
	\$7,000	439210	08/12/04		05/12/04	
	Submit P ² reports			07/28/04		07/26/04
				10/28/04		10/25/04
				01/28/05		01/21/05
				03/28/05		N/A
Submit cost of P ² study		04/05/05				

Kerry's Motor World (05/13/04)	Civil penalty: (\$3,000.00)	443684	05/27/04	Y		

John Dubuk (12/29/04)	Civil penalty: (\$10,000.00)					
	\$834.00	489979	01/28/05		01/24/05	
	\$834.00	489980	02/27/05		02/24/05	
	\$834.00	489981	03/29/05		03/26/05	
	\$834.00	489982	04/28/05	Y	07/29/06	
	\$834.00	489983	05/28/05	Y	UNC**	
	\$834.00	489984	06/27/05	Y	07/29/06	
	\$834.00	489985	07/27/05	Y	UNC**	
	\$834.00	489986	08/26/05	Y	UNC**	
	\$834.00	489987	09/25/05	Y	UNC**	
	\$834.00	489988	10/25/05	Y	UNC**	
\$834.00	489989	11/24/05	Y	UNC**		
\$826.00	489990	12/24/05	Y	UNC**		

C & J Contractors (12/21/04)	Civil penalty: (\$5,600.00)	479998	01/21/05	Y	*	

Bohanan Investments, Inc. (04/14/05 - Court Order, Default Judgement)	Civil penalty: (\$127,900.00)	550712	04/14/05	Y		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Columbus Steel Drum (07/06/05 - Consent Order)	Civil penalty: (\$500,000.00)					
	Bus Fund	\$25,000	514606	07/31/05	09/20/05	
		\$25,000	514607	10/01/05	10/12/05	
		\$25,000	514608	01/01/06	02/08/06	
		\$25,000	514609	04/01/06	04/21/06	
	OEPA	\$25,000	514163	07/01/06	07/10/06	
		\$25,000	514164	10/01/06	10/30/06	
		\$25,000	514165	01/01/07	01/09/07	
		\$25,000	514166	04/01/07	04/11/07	
		\$25,000	514167	07/01/07	08/01/07	
		\$25,000	514168	10/01/07	10/17/07	
		\$25,000	514169	01/01/08	03/12/08	
		\$25,000	514170	04/01/08	04/15/08	
		\$25,000	514171	07/01/08	07/01/08	
		\$25,000	514172	10/01/08	10/01/08	
		\$25,000	514173	01/01/09	04/08/09	
		\$25,000	514174	04/01/09	07/17/09	
		\$21,250	514175	07/01/09	10/15/09	
		\$21,250	726464	09/01/09	12/01/09	
		\$21,250	726465	11/01/09		
		\$21,250	726466	12/01/09		
		Submit PTI app. for K001-K003		08/06/05		05/31/05
		Award contracts		30 days from issuance of PTI		
		IC		60 days from issuance of PTI		07/16/06
		CC		180 days from issuance of PTI		07/13/07
		Perform stack tests		210 days from issuance of PTI		07/03/07
		Submit ITT for P015 & P016		07/20/05		06/07/05
	Perform stack tests		12/27/05		06/23/05	
	Submit PTI app. for P015 & P016		30 days after submission of test results		09/22/05	
	Award Contracts		30 days from issuance of PTI		*	
	IC		60 days from issuance of PTI		*	
	CC		120 days from issuance of PTI		*	
	Perform stack tests		150 days from issuance of PTI		*	
	Perform stack tests for P001, P005, P012 & P013		09/06/05		07/5-7/05	

* PTI not issued due to the continued incomplete nature of the PTI application.

Alfred Nickles Bakery, Inc. (08/24/05)	Civil penalty: (\$37,800)				
	OEPA	\$10,240	519964	09/24/05	09/23/05
	Bus Fund	\$7,560	519965	09/24/05	09/23/05
	Submit P ² report			11/24/05	
	Submit P ² report			02/24/06	
	Submit final P ² report			05/24/06	
	Submit documentation of costs		08/24/06		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Shell Construction, Inc. (09/26/05)	Civil penalty: (\$3,700)				
	OEPA	\$100.00	526004	10/26/05	09/27/05
		\$100.00	526005	11/25/05	11/10/05
		\$100.00	526006	12/25/05	12/20/05
		\$100.00	526007	01/24/06	10/28/06
		\$100.00	526008	02/23/06	10/28/06
		\$100.00	526009	03/25/06	10/28/06
		\$100.00	526010	04/24/06	09/13/06
		\$100.00	526011	05/24/06	09/13/06
		\$100.00	526012	06/23/06	09/13/06
		\$100.00	526013	07/23/06	09/13/06
		\$100.00	526014	08/22/06	11/02/06
		\$100.00	526015	09/21/06	11/02/06
		\$100.00	526016	10/21/06	11/02/06
		\$100.00	526017	11/20/06	11/02/06
		\$100.00	526018	12/20/06	11/14/06
		\$100.00	526019	01/19/07	11/30/06
		\$100.00	526020	02/18/07	11/30/06
		\$100.00	526021	03/20/07	12/18/06
		\$100.00	526022	04/19/07	01/10/07
		\$100.00	526023	05/19/07	02/02/07
		\$100.00	526024	06/18/07	03/01/07
		\$100.00	526025	07/18/07	03/12/07
		\$100.00	526026	08/17/07	05/07/07
		\$100.00	526027	09/16/07	06/27/07
		\$100.00	526028	10/16/07	06/27/07
		\$100.00	526029	11/15/07	06/27/07
		\$100.00	529030	12/15/07	06/27/07
		\$100.00	526031	01/14/08	08/13/07
		\$100.00	526032	02/13/08	08/13/07
	\$100.00	526033	03/14/08	10/24/07	
	\$100.00	526034	04/13/08	10/24/07	
	\$100.00	526035	05/13/08	10/24/07	
	\$100.00	526036	06/12/08	Y	05/07/09
	\$100.00	526037	07/12/08	Y	
	\$100.00	526038	08/11/08	Y	05/07/09
	\$100.00	526039	09/10/08	Y	05/07/09
	\$100.00	526040	10/10/08	Y	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Environmental Affairs Management (12/29/05)	Civil penalty: (\$10,000)				
	OEPA	\$1,000	541425	03/29/06	03/06/06
		\$1,000	541426	03/29/06	Y FSC**
		\$1,000	541427	05/28/06	Y FSC**
		\$1,000	541428	06/27/06	Y 12/28/07
		\$1,000	541429	07/27/06	Y FSC**
		\$1,000	541430	08/26/06	Y FSC**
		\$1,000	541431	09/25/06	Y FSC**
		\$1,000	541432	10/25/06	Y ACT**
	Bus Fund	\$1,000	541433	01/28/06	
	\$1,000	541434	02/27/06		02/25/06

Cargill, Incorporated (03/03/06 - Consent Decree) * - CD modification on 11/26/08	Civil penalty: (\$61,538)				
	OEPA	\$30,769	551695	03/27/06	04/03/06
	RAPCA	\$30,769	----	03/27/06	03/29/06
	Pay Title V permit fees	\$216,133.86		02/27/06	09/28/05
	Contribute \$75,000 to RAPCA's wood stove replacement program			04/15/06	03/21/06
	Retire B005			09/01/07	09/14/06
	Install LNB & FGR for B006			03/03/11	
	Propose final VOC solvent loss limit for Sidney			02/27/09	
	Comply w/final VOC solvent loss limit for Sidney			02/27/10	
	Meet 95% control for VOC or 10 ppm for P067 & P582 at Dayton			02/27/09	06/17/08
	Meet 98% control for VOC for P057, P031, P052, P088, & P072 at Dayton			09/01/10	
	Meet control equipment operating parameters for P032, P033 and P034 at Dayton			02/28/10*	
	Test and establish an allowable short-term VOC limit for each scrubber stack serving P032, P033 and P034 at Dayton			02/28/10*	
	Submit permit applications for P032, P033 and P034 at Dayton to incorporate control equipment operating parameters and VOC emission limits			09/01/10*	
	Submit PTI application to cap VOC and NOx emissions from Dayton at less than 854 tons/yr			09/01/10*	
	Comply w/ emission cap for Dayton			09/01/10*	
	Submit odor control optimization report for Dayton			09/01/06	08/29/06
	Meet 90% control for CO or 100 ppm for P067 and P582 at Dayton			02/27/09	06/17/08
	Meet 90% control for CO or 100 ppm for P057, P031, P052, P088 & P072			09/01/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Sunoco, Inc. (03/20/06 - Consent Decree)	SEP Project (\$50,000)				
	Pay contractor for project		04/20/06		08/01/06
	Install SCR for FCCU		12/31/09		
	Install WGS for FCCU		12/31/09		
	Comply with NSPS for SO ₂ and opacity for FCCU		12/31/09		
	Comply with NSPS for PM for FCCU		03/20/06		03/20/06
	Comply with NSPS for CO for FCCU		03/20/08		03/27/08
	Reduce NOx emissions from heaters and boilers greater than 40mm Btu/hr by at least 2,189 tons/yr		03/20/14		
	Achieve 2/3 of 2,189 tons/yr NOx reduction		03/20/10		
	Submit a detailed NOx Control Plan		07/20/06		07/05/06
	Install a second Claus train and 2 TGUs at the SRP		12/31/09		
	Submit optimization study for the SRP		09/20/06		09/10/06
	Implement recommendations of optimization study for SRP		03/20/07		03/12/07
	Propose interim performance standards for SRP		03/20/07		03/12/07
	Submit enhanced O & M plans for SRP and TGUs		09/20/06		09/08/06
	Submit Phase One review and verification of the TAB and BWON compliance status for 2 refineries		11/20/06		11/03/06
	Modify procedures for annual review of process information for benzene waste streams		09/20/06		08/01/06
	Implement annual benzene training for employees		06/20/06		06/08/06
	Develop SOPs for all benzene control equipment		09/20/06		09/08/06
	Submit schematics for waste/slop/off-spec oil streams		05/20/06		05/11/06
	Develop and submit written LDAR program		09/20/06		09/08/06
	Implement an LDAR training program		03/20/07		03/14/07
	Perform LDAR compliance audit		12/20/06		12/07/06
	Develop QA & QC procedures for LDAR monitoring		07/20/06		07/11/06
	Develop LDAR personnel accountability program		09/20/06		09/08/06
	Submit application to revise Title V permit to incorporate CD requirements		09/20/06		10/31/06

David Scholl (09/25/06)	Civil penalty: (\$400)	584589	10/25/06		12/11/06* 05/26/07*
----------------------------	------------------------	--------	----------	--	------------------------

* Made a partial payment of \$200 on 12/11/06. \$200 was certified to AGO. Payment of \$180 + \$20 AGO portion was made on 5/26/07

Alpha-Omega Chemical Company (12/14/06)				Civil penalty	
	OEPA	\$1,000	605635	05/14/07	08/20/07
		\$1,000	605636	09/14/07	Y
		\$1,200	605637	12/14/07	Y
	Bus Fund	\$ 800	605638	01/14/07	Y 07/29/07

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Astro Manufacturing & Design, Inc. (12/29/06)	Civil penalty (\$34,000)				
	OEPA	\$12,200	600221	01/29/07	01/23/07
	Bus Fund	\$ 6,800	600222	01/29/07	01/23/07
	Submit INR			01/29/07	11/30/06
	Submit semi-annual exceedance reports			01/29/07	04/12/07
	Submit detailed P ² report			03/29/07	03/29/07
	Submit detailed P ² report			06/29/07	
	Submit detailed P ² report			09/29/07	
	Submit final P ² report			11/29/07	
Submit PTI and Title V permit applications			03/01/07	11/30/06	

Gas and Oil, Inc. (03/14/07)	Civil penalty: (\$10,000)				
	OEPA	\$8,000	607778	06/14/07	Y BSC
	Bus Fund	\$2,000	607779	06/14/07	Y BSC
	Submit ITT			04/14/07	
	Conduct tests for #2, #3, #15 & #19			06/14/07	
	Submit test results			07/14/07	
	Submit PTO renewal application for #19			04/14/07	

Robert Henry and April Garner (07/11/07)	Civil penalty: (\$1,000)		616290	08/11807	Y ACT

Eslich Wrecking Company (07/16/07 - Consent Order)	Civil penalty: (\$44,853)		623581	08/16/07	08/20/07
	(\$44,853 = 45% of \$99,674)				
	Submit survey and plan to install protective physical barrier			08/16/07	
	Install cap			w/i 60 days of OEPA approval of survey and plan	
Grant a new deed			w/i 30 days of OEPA approval of survey		

Avalon Cleaners (08/21/07)	Civil penalty: (\$1,000)				
	OEPA	\$250	624475	09/21/07	Y
		\$250	624476	10/21/07	Y
		\$250	624477	11/21/07	Y
		\$250	624478	12/21/07	Y
	Submit records & documentation			01/31/08	
Submit records & documentation			07/31/08		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Tim Weiland (09/06/07)	Civil penalty: (\$250)	624378	10/06/07	Y	SKP

Alfred Nickles Bakery, Inc. (11/08/07)	Civil penalty: (\$60,250)				
	OEPA	\$46,200	634724	12/08/07	11/02/07
	Bus Fund	\$14,050	634725	12/08/07	11/02/07
	Submit P ² report			02/08/07	
	Submit P ² report			05/08/07	
	Submit P ² report			08/08/07	
	Submit final P ² report			10/08/07	
	Submit cost documentation			w/i 30 days of approval of report by OEPA	

The Premcor Refining Group, Inc. (11/20/07 - Consent Decree)	Civil penalty: (\$800,000)				
	OEPA	\$640,000	634775	12/20/07	12/19/07
	Bus Fund	\$160,000	634776	12/20/07	12/19/07
	Submit plan to meet .060 lb NOx/MMBtu for heaters and boilers			12/31/08	12/10/08
	Install controls to meet .060 lb NOx/MMBtu for heaters and boilers			12/31/11	
	Submit plan to meet .044 lb NOx/MMBtu for heaters and boilers			12/31/10	
	Install controls to meet .044 lb NOx/MMBtu for heaters and boilers			12/31/13	
	Submit report that demonstrates compliance with limits for heaters and boilers			03/31/12	
				03/31/14	
	Submit report re: the NOx concentration emissions for the FCCU thru optimization of O ₂ CS			03/01/12	
	Submit report that demonstrates compliance w/ <u>interim</u> NOx system-wide average for FCCUs			03/31/11	
	Submit report that demonstrates compliance w/ final NOx system-wide average for FCCUs			03/31/14	
	Commence implementation of SO ₂ adsorbing catalyst additive protocol for FCCU			11/20/07	09/07/07
	Comply w/ CO emission limit for FCCU			02/20/08	11/20/07
	Comply w/ opacity and PE limits for FCCU			12/31/13	
	Submit alternative monitoring plan application for NSPS Subpart J monitoring for SO ₂ at FCCU			12/31/08	12/19/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
The Premcor Refining Group, Inc (Continued)	Discontinue burning of fuel oil in heaters and boilers		11/20/07		08/16/07	
	Determine compliance w/ 6 BQ compliance option & submit a Benzene Waste NESHAP Compliance Review and Verification Report		03/01/08		03/14/08	
	Submit a report re: carbon canisters installed pursuant to Subpart FF		02/20/08		02/12/08	
	Develop annual training program for employees that draw benzene waste samples		02/20/08		03/19/08	
	Develop SOPs for all control equipment used to comply w/ Benzene Waste NESHAP and complete initial training re: SOPs		11/20/08		05/19/08* 02/12/09**	
				* Develops SOPs	** Training	
	Develop and implement procedures to ensure QA/QC for all LDAR data		02/20/08		01/25/08	
	Develop program to hold LDAR personnel accountable for LDAR performance		11/20/07		06/28/07	
	Establish a tracking program for valves and pumps that should be added to LDAR program		11/20/08		01/25/08	
	Reroute any SRP sulfur pit emissions to eliminate emissions		11/20/08		11/03/08	
	Provide description of causes of all acid gas flaring incidents from 1/1/02 thru 12/31/06		11/20/08		08/11/08	
	Submit compliance plan for flaring devices		12/31/09			
	Certify compliance for all flaring devices		12/31/13			
	Complete design of compressor system for P025		12/20/07		01/03/08	
	Complete installation of compressor system for P025		04/01/08		04/01/08	
	Submit T5 permit applications to incorporate emission limits required by Consent Decree		12/31/07		06/12/08	
	Pay \$200,000 to develop and implement a Traffic Signal Synchronization study for City of Lima		02/20/08		01/25/08	
	Install controls for unregulated and uncontrolled relief vents at Refinery (spend \$675,000 for SEP)		12/31/09			
	Submit plan for the Lima Infrared Camera Imaging Project (spend \$50,000 for SEP)		02/20/08		02/12/08	
	Transfer \$200,000 to LADCO for PM 2.5 speciation		02/20/08		01/18/08	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Premcor Refining Group, Inc (Continued)	Transfer \$50,000 to Ohio Environmental Council for control of emissions from municipal trucks and buses		02/20/08		01/18/08

E. I. Du Pont de Nemours & Company (11/06/07 - Consent Decree)	Civil penalty: (\$550,000) OEPA	\$440,000	634777	12/06/07	12/19/07
	Bus Fund	\$110,000	634778	12/06/07	12/19/07
	Comply w/ short-term SO ₂ emission limit of 2.2 lbs/ton		03/01/11		
	Comply w/ Mass Cap of 281 TPY		03/01/13		
	Submit proposed O&M Plan for short-term SO ₂ limit		11/01/10		
	Submit a complete T5 permit application for Consent Decree SO ₂ limits		09/01/11		

Converters Prepress (12/06/07 - Consent Order)	Civil penalty: (\$5,004) OEPA	\$139.00	644190	01/06/08	02/22/08
		\$139.00	644191	02/06/08	03/26/08
		\$139.00	644192	03/06/08	03/26/08
		\$139.00	644193	04/06/08	04/04/08
		\$139.00	644194	05/06/08	05/05/08
		\$139.00	644195	06/06/08	05/30/08
		\$139.00	644196	07/06/08	07/14/08
		\$139.00	644197	08/06/08	08/04/08
		\$139.00	644198	09/06/08	08/29/08
		\$139.00	644199	10/06/08	09/29/08
		\$139.00	644200	11/06/08	11/06/08
		\$139.00	644201	12/06/08	12/02/08
		\$139.00	644202	01/06/09	12/30/08
		\$139.00	644203	02/06/09	02/09/09
		\$139.00	644204	03/06/09	03/11/09
		\$139.00	644205	04/06/09	03/31/09
		\$139.00	644206	05/06/09	05/05/09
		\$139.00	644207	06/06/09	06/01/09
		\$139.00	644208	07/06/09	07/06/09
		\$139.00	644209	08/06/09	08/07/09
		\$139.00	644210	09/06/09	
		\$139.00	644211	10/06/09	
		\$139.00	644212	11/06/09	
		\$139.00	644213	12/06/09	
		\$139.00	644214	01/06/10	
		\$139.00	644215	02/06/10	
		\$139.00	644216	03/06/10	
		\$139.00	644217	04/06/10	
		\$139.00	644218	05/06/10	
		\$139.00	644219	06/06/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Converters Prepress (Con't)		\$139.00	644220		07/06/10
		\$139.00	644221		08/06/10
		\$139.00	644222		09/06/10
		\$139.00	644223		10/06/10
		\$139.00	644224		11/06/10
		\$139.00	644225		12/06/10

Real Spaces Property for Rent (12/31/07)	Civil penalty: (\$17,700)				
	OEPA	\$ 600.00	645338		01/30/08
		\$ 600.00	645339		02/29/08
		\$ 600.00	645340		03/30/08
		\$ 600.00	645341		04/29/08
		\$ 600.00	645342		05/29/08
		\$ 600.00	645343		06/28/08
		\$ 600.00	645344		07/28/08
		\$ 600.00	645345		08/27/08
		\$ 600.00	645346		09/26/08
		\$ 600.00	645347		10/26/08
		\$ 600.00	645348		11/25/08
		\$ 600.00	645349		12/25/08
		\$ 600.00	645350		01/24/09
		\$ 600.00	645351		02/23/09
		\$ 600.00	645352		03/25/09
		\$ 600.00	645353		04/24/09
	\$ 600.00	645354		05/24/09	
	\$ 600.00	645355		06/23/09	
	\$3,360.00	645356		07/23/09	
	Bus Fund	\$3,560.00	645357		07/23/09

Christopher Vincent (02/15/08)	Civil penalty: (\$1,000)		653134		03/16/08
				Y	ACT

James Brown (03/11/08)	Civil penalty: (\$750)		653125		04/11/08
				Y	ACT

Bates Recycling, Inc. (06/04/08)	Civil penalty: (\$1,000)		657594		06/18/08
				Y	

Craig Eddy (06/04/08)	Civil penalty: (\$750)		657302		07/04/08
				Y	

Warren Ropp (06/02/08)	Civil penalty: (\$250)		657293		07/02/08
				Y	

JR's Truck Parts (06/02/08)	Civil penalty: (\$500)		657294		07/02/08
				Y	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Peter Backer (07/01/08)	Civil penalty: (\$750)	657790	07/31/08	Y	

W. A. Miller (07/16/08)	Civil penalty: (\$1,000)	666334	08/16/08	Y	*
* Partial payment of \$350 received 10/20/08 - Potential to Certify. *****					
Lanny Reynolds (07/16/08)	Civil penalty: (\$750)	666335	08/16/08	P	

Lance Dudgeon (07/09/08)	Civil penalty: (\$500)	659540	08/09/08	Y	

Johnathan Strickland (07/16/08)	Civil penalty: (\$2,000)	666331	08/16/08	Y	

Luci, Inc. (07/08/08)	Civil penalty: (\$10,000)				
	OEPA \$8,000	659538	08/08/08	Y	
	Bus Fund \$2,000	659539	08/08/08	Y	

Ford Motor Company (07/31/08)	Civil penalty: (\$1,400,000)				
	OEPA \$1,120,000	666337	08/31/08		08/18/08
	Bus Fund \$280,000	666338	08/31/08		08/18/08
	Shut down cupola 3 and mold line 7		12/31/08		12/11/08
	Shut down cupola 1 & 2 and mold lines 2 & 3		12/31/10		

Douglas Kehres (08/13/08)	Civil penalty: (\$500)	666363	09/13/08	Y	

Great Lakes Crushing Ltd. (10/01/08)	Civil penalty: (\$12,000)				
	OEPA \$9,600	686990	10/31/08	Y	09/10/09*
	Bus Fund \$2,400	686991	10/31/08	Y	04/23/09**
* Paid the \$9,600 plus \$1,095.45 in interest to AGO Revenue Recovery. AGO took \$1,069.55 for its collection efforts. ** AGO took \$240 of this amount for its collection efforts. *****					
Erie Materials, Inc. (09/24/08 - Consent Order)	Civil penalty: (\$180,000)				
	OEPA \$144,000	686933	10/24/08		12/03/08
	Bus Fund \$36,000	686932	10/24/08		12/03/08
	Conduct emission testing		w/i 60 days of permit issuance or w/i 60 days of startup of 2009 season if permit issued after 9/1/08		
	Pay emissions fees of \$7,330 for 1995 through 2007 for Sandusky and for 1999 through 2005 for Portage		10/24/08		10/09/08

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Robert Montgomery, Sr., d.b.a. Montgomery Auto Salvage (10/16/08)	Civil penalty: (\$3,000)	688462	11/15/08	Y	

Re-Gen, Inc. (01/15/09 - Consent Order)	Civil penalty: (\$70,000) OEPA	\$28,000 709526	02/14/09		02/11/09
		\$28,000 709527	01/15/10		
	Bus Fund	\$ 7,000 709528	02/14/09		02/11/09
		\$ 7,000 709529	01/15/10		
	Submit complete approvable synthetic minor PTIO app.		w/i 60 days of resuming operations		
	Submit FERs for 1999-2007 and pay \$8,000 in past emission fees		upon receipt of invoice from OEPA		06/12/09

Ultimate Industries, Inc. (02/25/09 - Consent Order)	Civil penalty: (\$4,200) EPA	\$175.00 712529	03/05/09		05/12/09
		\$175.00 712530	04/05/09		06/15/09
		\$175.00 712531	05/05/09		08/07/09
		\$175.00 712532	06/05/09		09/28/09
		\$175.00 712533	07/05/09		
		\$175.00 712534	08/05/09		
		\$175.00 712535	09/05/09		
		\$175.00 712536	10/05/09		
		\$175.00 712537	11/05/09		
		\$175.00 712538	12/05/09		
		\$175.00 712539	01/05/10		
		\$175.00 712540	02/05/10		
		\$175.00 712541	03/05/10		
		\$175.00 712542	04/05/10		
		\$175.00 712543	05/05/10		
		\$175.00 712544	06/05/10		
		\$175.00 712545	07/05/10		
		\$175.00 712546	08/05/10		
		\$175.00 712547	09/05/10		
		\$175.00 712548	10/05/10		
		\$175.00 712549	11/05/10		
		\$175.00 712550	12/05/10		
		\$175.00 712551	01/05/11		
		\$175.00 712552	02/05/11		

N-Viro International Corp. (03/24/09)	Civil penalty: (\$16,000) OEPA	\$4,000 707974	07/22/09		04/22/09
		\$4,000 707975	10/20/09		07/21/09
		\$4,000 707976	01/18/10		10/19/09
		\$4,000 707977	04/18/10		
	Bus Fund	\$4,000 707978	04/23/09		04/27/09

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Brush Wellman, Inc. (03/24/09)	Civil penalty: (\$40,000)					
	OEPA	\$28,000 711745	04/24/09		03/26/09	
	Bus Fund	\$12,000 711746	04/24/09		03/26/09	
	Install 3 TRIBO.d2 particulate emission monitors		09/24/09			
	Submit documentation of SEP cost		10/24/09			

Chemtrade Logistics Inc/Marsulex, (04/02/09 - Consent Decree)	Civil penalty: (\$120,000)					
	OEPA	\$72,000 712639	05/02/09		05/26/09	
	Bus Fund	\$24,000 712640	05/02/09		05/26/09	
	ODNR	\$24,000	05/02/09			
	Comply w/ short-term and long-term SO ₂ emission rates:	Oregon	07/01/11			
		Cairo	07/01/11			
	Comply w/ acid mist emission rate:	Oregon	04/02/09			
		Cairo	07/01/11			
	Install SO ₂ CEMS:	Oregon	07/01/11			
		Cairo	07/01/11			
	Perform compliance tests:	Oregon	07/01/11			
		Cairo	07/01/11			
	Submit O&M Plans:	Oregon	07/01/11			
		Cairo	07/01/11			
	Submit permit applications:	Oregon	07/01/11			
Cairo		07/01/11				
Submit report re: how compliance will be achieved:	Oregon	01/01/13				
	Cairo	(365 days after acceptance of short-term limit)				
		Oregon	07/01/10			
		Cairo	07/01/10			

Lagrange Township Trustees (04/14/09)	Civil penalty: (\$250)	713233	05/14/09			
	Report the results of vehicle inspections		12/31/09			

George Rank (04/16/09)	Civil penalty: (\$500)	713237	05/16/09			

Richard Morrow (05/01/09)	Civil penalty: (\$3,000)	713246	05/15/09			

Lorain County Regional Transit Authority (05/15/09)	Civil penalty: (\$250)	714622	06/15/09			

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Container Recyclers, Inc. (d.b.a. Colimbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Stipulated penalty: (\$87,050)				
	OEPA	\$21,762.50 713429	10/23/09		10/21/09
		\$21,762.50 713430	01/18/10		
		\$21,762.50 713431	04/16/10		
	Bus Fund	\$10,881.25 713432	06/05/09		06/01/09
	\$10,881.25 713433	07/17/09		07/16/09	

Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000)				
	OEPA	\$192,000 714631	07/01/09		08/21/09
	Bus Fund	\$48,000 714632	07/17/09		08/21/09
	Submit either a Title V permit app or a synthetic minor PTI/FESOP app		10/17/09		

T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200)				
	OEPA	\$68,160 714704	07/17/09		06/25/09
	Bus Fund	\$17,040 714705	07/17/09		06/25/09
	Conduct emission tests Submit test report		08/07/09 09/07/09		

Village of Gloria Glens (06/18/09)	Civil penalty: (\$250)	714659	07/18/09		
	Have all vehicles tested and report results		12/31/09		

Village of North Randall (06/30/09)	Civil penalty: (\$1,500)	714660	07/30/09		
	Have all vehicles tested and report results		12/31/09		

Leroy and Judith Schaffer (06/30/09)	Civil penalty: (\$250)	714661	07/30/09		

Precision Aggregates III, LLC (07/08/09)	Civil penalty: (\$15,000)				
	OEPA	\$4,500 715181	09/15/09		09/14/09
		\$7,500 715182	09/15/10		
	Bus Fund	\$3,000 715183	09/15/09		09/14/09

Village of Oakwood (07/07/09)	Civil penalty: (\$2,500)	714842	08/07/09		08/17/09
	Have all vehicles tested and report results		11/02/09		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
The Belden Brick Company, L.L.C. (07/06/09 - Consent Order)	Civil penalty: (\$850,000)				
	OEPA	\$170,000	717042	08/06/09	08/17/09
		\$170,000	717043	07/06/10	
		\$170,000	717044	01/06/11	
		\$170,000	717045	07/06/11	
	Bus Fund	\$170,000	717046	08/06/09	08/17/09
	Pay \$334,514.43 for Title V permit emission fees for CY 2001 thru 2006			Upon receipt of invoice from OEPA	
	Submit SO ₂ FERs for CY 1993 thru 2000			01/06/10	
For Plant 8, pay difference in emission fees for CY 1999 and 2000			Upon receipt of invoice from OEPA		

Cleveland Board of Education (E-Check) (08/11/09)	Civil penalty: (\$5,000)		726483	09/11/09	
	Have all vehicles tested and report results			12/31/09	

Saif Khan, d.b.a. Lakeland Citgo (08/20/09)	Civil penalty: (\$10,000)				
	OEPA	\$ 500	726488	09/20/09	08/06/09
		\$2,500	726489	12/20/09	
		\$2,500	726490	03/20/10	
		\$2,500	726491	06/20/10	
	Bus Fund	\$2,000	726492	09/20/09	08/06/09

Joseph Parker (08/18/09)	Civil penalty: (\$250)		725188	09/18/09	

The Shelly Holding Company, et al. (09/02/09 - Court Order)	Civil penalty: (\$350,123.52)			10/02/09	

McCarthy Corporation (09/22/09)	Civil penalty: (\$3,000)		727233	10/05/09	

Pioneer Environmental Companies (09/22/09)	Civil penalty: (\$7,000)				
	OEPA	\$2,100	727235	10/22/09	
		\$3,500	727236	03/22/10	
	Bus Fund	\$1,400	727237	10/22/09	

Total Environmental Services, LLC (09/17/09)	Civil penalty: (\$5,000)				
	OEPA	\$4,000	727529	10/01/09	
	Bus Fund	\$1,000	727530	10/17/09	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Speedway SuperAmerica, LLC (09/22/09)	Civil penalty: (\$35,880)				
	OEPA	\$28,704	727238		09/29/09
	Bus Fund	\$7,176	727239		09/29/09
	Submit weekly inspection records				11/14/10
	Submit weekly inspection records				11/14/11
	Submit results of static leak and A/L ratio tests for 2010				04/14/10
	Submit results of static leak and A/L ratio tests for 2010				09/14/10
	Submit results of static leak and A/L ratio tests for 2011				04/14/11
					09/14/11

Eramet Marietta, Inc. (10/07/09)	Civil penalty: (\$30,000)				
	OEPA	\$24,000	735687		10/13/09
	Bus Fund	\$6,000	735688		10/13/09
	Submit copy of inspection & testing schedule				11/06/09
	Submit documentation of de-registering of formerly covered processes				11/06/09

Stein, Inc. (10/13/09)	Civil penalty: (\$50,000)				
	Bus Fund	\$10,000	735700		10/23/09
	OEPA	\$10,000	735696		05/13/10
		\$10,000	735697		08/13/10
		\$10,000	735698		11/13/10
	\$10,000	735700		02/13/11	

Joseph and Marie Eberz (10/19/09)	Civil penalty: (\$500)		735796		11/19/09

CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)				
	OEPA	\$184,000	735799		11/19/09
	Bus Fund	\$ 46,000	735800		11/19/09
	Submit Title V permit appl.				w/i 90 days of issuance of PTI
	Submit plan for measuring OC content of stone				01/19/10
Submit FERs for 1993-1996				04/19/10	

Aleris International, Inc., et. Al. (10/30/09 - CO)	Civil penalty: (\$334,545)				
					when U.S. Bankruptcy court for District of Delaware decides
	Install load cells to weigh flux				04/29/10
	Submit Capture and Collection System Improvement Plan				11/29/09
	Complete all improvements described in CCSIP				04/29/10
	Measure fan RPM				01/29/10
	Measure static pressure of air curtain				01/29/10
	Perform compliance tests				10/29/10
Submit test results				12/29/10	

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date
Aleris Int'l, Inc., et. Al. (Con't)	Submit HCI PTE analysis		12/29/10		
	Conduct additional compliance tests		03/29/10		
	Comply with all requirements of Subparts A and RRR		09/29/10		

Circle K Midwest (GDFs 5204, 5209, 5318, 5320, 5557, 5558, 0059, and 5217) (11/04/09)	Civil penalty: (\$100,000)				
	OEPA	\$80,000 735797	12/04/09		11/13/09
	Bus Fund	\$20,000 735798	12/04/09		11/13/09
	Perform static leak & A/L ratio tests at each GDF		03/31/10		
			08/31/10		
		03/31/11			
		08/31/11			

Rascal House Pizza (11/12/09)	Civil penalty: (\$10,000)				
	OEPA	\$1,250	12/12/09		
		\$1,250	03/12/10		
		\$1,250	06/12/10		
		\$1,250	09/12/10		
		\$1,250	12/12/10		
		\$1,250	03/12/11		
		\$1,250	06/12/11		
	\$1,250	09/12/11			

Great Plains Exploration (11/12/09)	Civil penalty: (\$19,000)				
	OEPA	\$1,000 746093	03/01/10		
		\$1,000 746094	04/01/10		
		\$1,000 746095	05/01/10		
		\$1,000 746096	06/10/10		
		\$1,000 746097	07/01/10		
		\$1,000 746098	08/01/10		
		\$1,000 746099	09/01/10		
		\$1,000 746100	10/01/10		
		\$1,000 746101	11/01/10		
		\$1,000 746102	12/01/10		
		\$1,000 746103	01/01/11		
		\$1,000 746104	02/01/11		
		\$1,000 746105	03/01/11		
		\$1,000 746106	04/01/11		
	\$1,000 746107	05/01/11			
	Bus Fund	\$1,000 746108	11/01/09		
		\$1,000 746109	12/01/09		
		\$1,000 746110	01/01/10		
		\$1,000 746111	02/01/10		

Facility Name	Milestone or Requirement*	Revenue ID #	Deadline in F&O's	C y/n	Completion Date	
Sunoco, Inc. (Toledo Refinery) (11/12/09)	Civil penalty: (\$32,250)					
	OEPA	\$25,800	11/26/09		11/06/09	
	Bus Fund	\$6,450	12/12/09		11/06/09	
	Complete corrective actions in Finding 15(a) and submit documentation			12/31/09		
	Correct deficiencies in butane sphere inspection reports and submit documentation			06/30/10		
	Resolve compliance audit findings in Finding 14(c) and submit documentation			12/31/09		

Thermo-Rite Manufacturing Company, Inc. (12/02/09)	Civil penalty: (\$36,000)					
	OEPA	\$ 800	03/01/10			
		\$2,000	04/01/10			
		\$2,000	05/01/10			
		\$2,000	06/01/10			
		\$2,000	07/01/10			
		\$2,000	08/01/10			
		\$2,000	09/01/10			
		\$2,000	10/01/10			
		\$2,000	11/01/10			
		\$2,000	12/01/10			
		\$2,000	01/01/11			
		\$2,000	02/01/11			
		\$2,000	03/01/11			
		\$2,000	04/01/11			
		\$2,000	05/01/11			
		Bus Fund	\$2,000	12/01/09		11/30/09
\$2,000	01/01/10					
\$2,000	02/01/10					
\$1,200	03/01/10					

D & R Supply, Inc. (12/02/09)	Civil penalty: (\$20,000)					
	OEPA	\$5,000	01/01/10			
		\$2,750	04/01/10			
		\$2,750	07/01/10			
		\$2,750	10/01/10			
		\$2,750	01/01/11			
		\$2,750	12/01/09		11/06/09	
Bus Fund	\$4,000					

- ** FSC - Assigned to a Special Counsel
- ACT - Account is being collected in house
- UNC - Account has been placed in a currently uncollectible status
- RTN - Returned from Special Counsel, Unpaid
- PIF - Account is paid in full
- SKP - Account is in the skip tracer desk



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

December 2, 2009

Certified Mail

Mr. Roy Allen
Chairman
Thermo-Rite Manufacturing Company, Inc.
1355 Evans Avenue
Akron, OH 44305

Re: Final Findings and Orders for
Violations of Ohio's Air Regulations

Dear Mr. Allen:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.
Assistant Chief, SIP Development & Enforcement Section
Division of Air Pollution Control

JAO/ud

Enclosure

xc: Carol Hester, PIC
Marcus Glasgow, Legal Office
Brenda Case, Fiscal Office (Agency #13)
Priscilla Roberson, DAPC
Urvi Doshi, DAPC
Tom Kalman, DAPC
Frank Markunas/Laura Miracle, ARAQMD

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC -2 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Thermo-Rite Manufacturing Company, Inc. :
1355 Evans Avenue :
Akron, Ohio 44305 :

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: Don Lassiter Date: 12-2-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Thermo-Rite Manufacturing 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

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 regulations promulgated thereunder.

IV. FINDINGS

The Director of the Ohio EPA makes the following findings:

1. The Akron Regional Air Quality Management District ("ARAQMD") is an agent of Ohio EPA for the Division of Air Pollution Control in Summit County.
2. Respondent owns and operates a fireplace screen and cover manufacturing facility ("Facility") located at 1355 Evans Avenue, Akron, Summit County, Ohio. At the Facility, Respondent operated a conveyORIZED spray booth with a bake oven and an in-line halogenated solvent degreaser (emissions units K001 and L001), a batch vapor degreaser

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 2 of 12

(emissions unit L002), and a paint booth (emissions unit K002). Each of these emissions units met the definition of an "air contaminant source" in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X), emitted volatile organic compounds ("VOCs") as defined in OAC Rule 3745-21-01(B)(14), and was subject to OAC Chapter 3745-21.

3. Emissions units K001 and L001 were issued permit to install ("PTI") #16-123 on October 2, 1980. Emissions unit K002 was issued PTI #16-1956 on July 21, 1999. Emissions unit L002 was issued PTI #16-02355 on August 12, 2004. On August 10, 2005, Respondent obtained a Title V permit for the facility that contained applicable emissions limitations, control requirements, operating restrictions, and monitoring, record-keeping, reporting, and testing requirements for each emissions unit.

4. ORC § 3704.05(C) states that no person who is the holder of a permit issued under division (F) or (G) of ORC § 3704.03 shall violate any of its terms and conditions. All permits issued by the Director of Ohio EPA are issued under division (F) or (G) of ORC § 3704.03. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under Chapter 3704.

5. ORC § 3704.05(J)(2), in part, prohibits any person from violating any applicable requirement of a Title V permit or any permit condition.

Failing to return solvent level of the in-line cleaning machines to same fill-line each month:

6. Part III Term and Condition A.V.1. of Respondent's Title V permit and Section 63.465(b) of 40 CFR Part 63, Subpart T for emissions units L001 and L002, and PTI #16-02355 for emissions unit L002 require Respondent to return the solvent level of the in-line cleaning machines (emissions units L001 and L002) to the same fill-line each month, immediately prior to calculating monthly emissions as specified in Part III Term and Condition A.V.2. of Respondent's Title V permit and Part III Term and Condition A.V.1. of PTI #16-02355.

7. From April 10, 2007 to March 19, 2008, for 344 days for emissions unit L001, and from April 2, 2007 to March 19, 2008, for 352 days for emissions unit L002, Respondent failed to return the solvent level of the in-line solvent cleaning machines to the same fill-line each month, immediately prior to calculating monthly emissions as specified in Part III Term and Condition A.V.1. of Respondent's Title V permit and Part III Term and Condition A.V.1. of PTI #16-02355. The failures to perform this activity on these days were violations of Respondent's Title V permit, PTI #16-02355, Section 63.465(b) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C) and (J)(2).

Failure to maintain records of dates and amounts of solvent added to solvent cleaning machine L001:

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 3 of 12

8. Part III Term and Condition A.III.1 and A.III.3.a. of Respondent's Title V permit and Sections 63.464(a)(1)(i) and 63.467(c)(1) of 40 CFR Part 63, Subpart T require Respondent to maintain records of the dates and amounts of solvent that is added to the solvent cleaning machine of emissions unit L001.

9. From July 17, 2007 to March 19, 2008, for 246 days for emissions unit L001, Respondent failed to record the addition of 55 gallons of solvent to the solvent cleaning machine, in violation of Respondent's Title V permit, Sections 63.464(a)(1)(i) and 63.467(c)(1) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(J)(2).

Failure to calculate the average halogenated HAP solvent emissions on first operating day of each month:

10. Part III Term and Condition A.V.2. of Respondent's Title V permit and Section 63.465(c) of 40 CFR Part 63, Subpart T for emissions units L001 and L002, and PTI #16-02355 for emissions unit L002 require Respondent to calculate the average halogenated HAP solvent emissions on the first operating day of each month for emissions units L001 and L002.

11. From February 1, 2007 to March 19, 2008, for 412 days for emissions units L001 and L002, Respondent failed to calculate the average halogenated HAP solvent emissions on the first operating day of each month, in violation of Respondent's Title V permit, PTI #16-02355, Section 63.465(c) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C) and (J)(2).

Failure to keep the daily coating usage in K002 at or below 3 gallons:

12. Part III Term and Condition A.II.1. of Respondent's Title V permit requires Respondent to keep the daily coating usage in emissions unit K002 at or below 3 gallons.

13. On December 15, 2007 and January 5, 2008, Respondent failed to keep the daily coating usage in emissions unit K002 at or below 3 gallons, in violation of the Title V permit and ORC § 3704.05(J)(2). The daily coating usages on December 15, 2007 and January 5, 2008 were reported as 3.61 gallons and 3.125 gallons, respectively.

Exceedance of the VOC emission limitation for K002:

14. Part III Term and Condition A.I.1. of Respondent's Title V permit and Part III Term and Condition B.I.1. of PTI #16-1956 require Respondent to not exceed a VOC emission limitation of 19.3 pounds per day from coatings employed in emissions unit K002.

15. On December 15, 2007, and January 5, 2008, Respondent's VOC emission rate from the use of coatings in emissions unit K002 exceeded the limitation of 19.3 pounds of VOC per day, in violation of Respondent's Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). The VOC emission rates for December 15, 2007, and January 5, 2008, were reported as 19.75 pounds per day and 19.9 pounds per day,

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 4 of 12

respectively.

Failure to collect and record information each month on the cleanup materials used in K002:

16. Part III Term and Condition A.III.3. of Respondent's Title V permit and Part III Term and Condition B.III.2. of PTI #16-1956 require Respondent to collect and record information each month on the cleanup materials employed in emissions unit K002.

17. From on or about January 1, 2007 to November 2008, for about 670 days, Respondent failed to collect and record each month the following information on the cleanup materials employed in emissions unit K002:

- (a) the name and identification of each cleanup material employed;
- (b) the number of gallons of each cleanup material employed;
- (c) the VOC content of each cleanup material, in pounds per gallon; and
- (d) the total VOC emissions from all cleanup materials employed, in pounds or tons.

The failure to perform the collection and recording of the above information were violations of Respondent's Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). These violations ended when Respondent shut down the operation of emissions unit K002 in November 2008.

Failure to timely submit semi-annual exceedance reports for the trichloroethylene emission limitation for L001 and L002:

18. Part III Term and Condition A.IV.2. of Respondent's Title V permit and Section 63.468(h) of 40 CFR Part 63, Subpart T for emissions units L001 and L002, and Part III Term and Condition A.IV.2. of PTI #16-02355 for emissions unit L002 require Respondent to submit semi-annual exceedance reports to ARAQMD for any exceedance of the 3-month, rolling average trichloroethylene emission limitation of 150 kilograms per square meter per month (30.7 pounds per square foot per month) and if no exceedance occurred during the reporting period. The reports are due by July 30 and January 30 for the first and last semi-annual periods of each year, respectively.

19. The semi-annual exceedance reports for the above trichloroethylene emission limitation for the first half of 2007 and for the second half of 2007 were submitted late by Respondent on August 16, 2007 and February 11, 2008, respectively. The failure to timely submit such exceedance reports were violations of Respondent's Title V permit, PTI #16-02355, Section 63.468(h) of 40 CFR Part 63, Subpart T, and ORC § 3704.05(C) and (J)(2).

Failure to timely submit quarterly exceedance reports, which identify all exceedances of daily VOC emission limitation of 19.3 pounds per day for coatings for K002:

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 5 of 12

20. Part III Term and Condition A.IV.2. of Respondent's Title V permit and Part III Term and Condition B.IV.1. of PTI #16-1956 require Respondent to submit quarterly deviation reports to ARAQMD for all exceedances of the VOC emission limitation of 19.3 pounds per day for emissions unit K002 and that contain the actual daily VOC emissions for each such day. The reports are required to be submitted by not later than January 31, April 30, July 31 and October 31 of each calendar year for the previous calendar quarters.

21. The quarterly exceedance reports for the above emissions limitation for emissions unit K002 for the second, third and fourth quarters of calendar year 2007 were submitted late by Respondent on August 16, 2007, November 6, 2007 and February 11, 2008, respectively. The failure to timely submit such exceedance reports were violations of Respondent's Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). Additionally, the quarterly deviation report submitted by Respondent on February 11, 2008 did not mention the deviation of the daily VOC emission limitation that occurred on December 15, 2007 for emissions unit K002, in violation of Respondent's Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2). Respondent corrected this violation by submitting a complete quarterly deviation report for the fourth quarter of 2007 on March 6, 2008.

Failure to timely submit quarterly exceedance reports, which identify all exceedances of the coating usage limitation for K001 and K002:

22. Part I Term and Condition A.1. of Respondent's Title V permit requires Respondent to submit quarterly exceedance reports that identify all exceedances of the rolling, 12-month coating usage limitation of 249 gallons for emissions units K001 and K002 combined, to avoid being subject to 40 CFR Part 63, Subpart M. The reports are required to be submitted by no later than January 31, April 30, July 31 and October 31 of each year for the previous calendar quarters.

23. The quarterly exceedance reports for the above coating usage limitation for emissions units K001 and K002 for the second, third and fourth quarters of calendar year 2007 were submitted late by Respondent on August 16, 2007, November 6, 2007 and February 11, 2008, respectively. The failure to timely submit such exceedance reports were violations of Respondent's Title V permit and ORC § 3704.05(J)(2).

Failure to timely submit quarterly exceedance reports, which identify each month during which organic compound emission from L002 exceeded the limitation of 0.3 ton per month:

24. Part III Term and Condition A.IV.4. of Respondent's Title V permit and Part III Term and Condition A.IV.3. of PTI #16-02355 require Respondent to submit quarterly exceedance reports that include an identification of each month during which the organic compound ("OC") emissions from emissions unit L002 exceeded the limitation of 0.3 ton per month and the actual monthly OC emissions for each such month. The reports are required to be submitted by no later than January 31, April 30, July 31, and October 31 of each year for the previous calendar quarters.

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 6 of 12

25. The quarterly exceedance reports for the above OC emission limitation for emissions unit L002 for the second, third and fourth quarters of calendar year 2007 were submitted late by Respondent on August 16, 2007, November 6, 2007 and February 11, 2008, respectively. The failure to timely submit such exceedance reports were violations of Respondent's Title V permit, PTI #16-02355, and ORC § 3704.05(C) and (J)(2).

Failure to timely submit annual reports that specify the total VOC emissions from K002:

26. Part III Term and Condition A.IV.3. of Respondent's Title V permit and Part III Term and Condition B.IV.2. of PTI #16-1956 require Respondent to submit, by January 31 of each year, annual reports that specify the total VOC emissions from emissions unit K002 for the previous calendar year.

27. The annual VOC emissions report for emissions unit K002 for calendar year 2007 was submitted late by Respondent on February 11, 2008, in violation of Respondent's Title V permit, PTI #16-1956, and ORC § 3704.05(C) and (J)(2).

Failure to timely submit semi-annual deviation reports for all deviations of the Title V permit's monitoring, record-keeping, reporting, testing, and miscellaneous requirements for the facility:

28. Part I Term and Condition A.1.c.iii. of Respondent's Title V permit requires Respondent to submit semi-annual deviation reports to ARAQMD for all deviations of the Title V permit's monitoring, record-keeping, reporting, testing, and miscellaneous requirements for the facility. The reports are required to be submitted by no later than July 31 and January 31 for the two semi-annual periods in each year.

29. The semi-annual reports for the deviations from the above-mentioned requirements for the first and second halves of calendar year 2007 were submitted late by Respondent on August 16, 2007 and February 11, 2008, in violation of Respondent's Title V permit, PTI #16-1956, PTI #16-02355 and ORC § 3704.05(C) and (J)(2). The semi-annual deviation report of February 11, 2008 did not mention the testing deviations for emissions units L001 and L002, the monitoring deviations for emissions units L001, L002 and K002, and the reporting deviations, and the reporting time period stated in the report was incorrect, in violation of Respondent's Title V permit and ORC § 3704.05(J)(2). Respondent corrected these violations by resubmitting the February 11, 2008 semi-annual deviation report on March 6, 2008.

Failure to timely submit an annual solvent emission report by February 1 of every year for L001 and L002:

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 7 of 12

30. Part III Term and Condition A.IV.1. of Respondent's Title V permit and Section 63.468(g) of 40 CFR Part 63, Subpart T for emissions units L001 and L002, and Part III Term and Condition A.IV.1. of PTI # 16-02355 for emissions unit L002 require Respondent to submit, by February 1 of every year, an annual solvent emission report.

31. The annual solvent emission report for emissions units L001 and L002 for calendar year 2007 was submitted late on March 6, 2008, by Respondent, in violation of Respondent's Title V permit, Section 63.468(g) of 40 CFR Part 63, Subpart T, PTI #16-02355, and ORC § 3704.05(C) and (J)(2).

Failure to notify in writing of any daily record showing that the coating line of emissions unit K002 employed more than three gallons per day of coating:

32. Part III Term and Condition A.IV.1. of Respondent's Title V permit, Part III Term and Condition A.IV.1. of PTI #16-1956, and OAC Rule 3745-21-09(B)(3)(e) require Respondent to notify ARAQMD in writing of any daily record showing that the coating line of emissions unit K002 employed more than three gallons per day of coating. Also, copies of such records are to be sent to ARAQMD within 45 days after each exceedance occurs.

33. The deviation reports for the coating usage exceedances occurring on December 15, 2007 and January 8, 2008 were not submitted by Respondent within 45 days of their occurrence, i.e., by January 29, 2008 and February 22, 2008, in violation of Respondent's Title V permit, PTI #16-1956, OAC Rule 3745-21-09(B)(3)(e), and ORC § 3704.05(C), (G) and (J)(2). Respondent corrected these violations by submitting all the exceedance reports on March 6, 2008.

Failure to timely submit Title V annual compliance certifications for 2007 and 2008:

34. Part I Term and Condition A.12.d. of Respondent's Title V permit requires Respondent to submit annual compliance certifications for the facility on a calendar year basis and by no later than April 30 of the succeeding year.

35. The annual compliance certification for the facility for calendar year 2007 was submitted by Respondent on March 6, 2008. However, the certification submitted by Respondent on March 6, 2008 was deficient in the following manner:

- (a) An emission limitation and several permit term numbers were not identified;
- (b) The late reports on page 3 contained a description, not a permit term number;
- (c) The method used to determine compliance, the report that was used to document any deviation/excursion, and an explanation of nature, duration and probable cause of any excursion/deviation, as well as any corrective action, were not provided; and

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 8 of 12

- (d) Any intermittent compliance with State or Federally enforceable terms and conditions was not identified as such pursuant to Part I, Term and Condition A.6.

An inaccurate Title V compliance certification for calendar year 2007 was submitted to ARAQMD by Respondent on June 16, 2008.

A Title V compliance certification for calendar year 2008 was not submitted by Respondent by April 30, 2009.

The complete Title V compliance certifications for calendar years 2007 and 2008 were submitted on August 14, 2009.

Therefore, Respondent failed to submit a complete Title V compliance certification for calendar year 2007 by April 30, 2008 and failed to submit a Title V compliance certification for calendar year 2008 by April 30, 2009, in violation of Respondent's Title V permit and ORC § 3704.05(J)(2).

36. On February 21, 2008, ARAQMD sent a Notice of Violation ("NOV") letter to Respondent for the violations identified in Findings 6 to 33 and requested a plan and schedule for achieving compliance.

37. On March 6, 2008, Respondent replied to ARAQMD's February 21, 2008 NOV.

38. On May 29, 2008, ARAQMD sent another NOV to Respondent for the violations identified in Findings 34 and 35, which informed the Respondent of the incomplete submittal of the annual Title V compliance certification for 2007.

39. On February 10, 2009, Respondent sent ARAQMD a letter which informed ARAQMD of the permanent shutdown of emissions units K001, K002, L001 and L002.

40. On August 14, 2009, Respondent submitted to Ohio EPA complete Title V compliance certifications for calendar years 2007 and 2008.

41. 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:

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 9 of 12

1. Respondent shall pay the amount of thirty-six thousand dollars (\$36,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Of this amount, Respondent shall pay to Ohio EPA the amount of twenty-eight thousand and eight hundred dollars (\$28,800) in accordance with the payment schedule in Order 4. Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks 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 seven thousand and two hundred dollars (\$7,200) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payments pursuant to the payment schedule in Order 4 by tendering official checks made payable to "Treasurer, State of Ohio" totaling \$7,200. The official checks 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 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. Respondent shall pay the civil penalties identified in Orders 1 and 2 in 18 equal monthly installments of \$2,000 each by no later than the deadlines specified in the following payment schedule:

- 1st three monthly payments of \$2,000 each due to SEP bus fund pursuant to Order 2 and beginning on December 1, 2009;
- 4th payment of \$2,000 shall be split into two checks, with \$1,200 due to SEP bus fund pursuant to Order 2 and \$800 due to Ohio EPA pursuant to Order 1 and payable by March 1, 2010; and
- the remaining 14 monthly payments of \$2,000 each due to Ohio EPA pursuant to Order 1 and beginning on April 1, 2010.

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$7,200 or the remaining balance of the civil penalty in accordance with the procedures in Order 1.

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 10 of 12

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 operation of Respondent's 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:

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

and to:

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

Director's Final Findings and Orders
Thermo-Rite Manufacturing Company, Inc.
Page 11 of 12

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.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

December 2, 2009

CERTIFIED MAIL

Mr. Brian P. Barger, Esq.
Attorney at Law
Brady, Coyle & Schmidt, Ltd.
4052 N. Holland-Sylvania Road
Toledo, Ohio 43623

Re: Final Findings and Orders for:
air pollution control law violations at D
& R Supply, Inc., 18228 Fulton Road
in Marshallville (Wayne County), Ohio

Dear Mr. Barger:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

James A. Orlemann, P.E.
Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

JAO/pr

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Carol Hester, PIC
Priscilla Roberson, DAPC
Brenda Case, Fiscal Office (Agency # NA)
Marcus Glasgow, Legal Office
Tim Fischer, NEDO
Gary Radabaugh, D & R Supply, Inc.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

DEC -2 2009

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

D&R Supply, Inc.
18228 Fulton Road
Marshallville, Ohio 44645

:
:
:

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: Jim Cassiter Date: 12-2-09

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to D&R Supply, 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 makes the following findings:

1. Respondent is an asphaltic concrete producer that combines different types of aggregate, including limestone and sand, with liquid asphalt in a large rotary drum. Respondent's facility is located at 18228 Fulton Road in Marshallville, Wayne County, Ohio. The asphaltic concrete production equipment ("emission unit P901") is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X). The equipment generates "particulate emissions" as defined in OAC Rule 3745-17-01.

2. Respondent was issued a Permit to Install ("PTI") modification on April 5, 2005 pursuant to OAC Chapter 3745-31. The terms of Respondent's PTI required Respondent to perform stack testing to determine compliance with the particulate emissions ("PE") limitation contained in the PTI. Specifically, Respondent's PTI established that PE shall not exceed 0.04 grain per dry standard cubic foot ("gr/dscf") of exhaust gas.

3. Respondent performed a stack test for PE on August 1, 2007 and provided Ohio EPA with the results of the stack test on September 13, 2007. The stack test revealed that the actual PE were 0.085 gr/dscf, over twice as much as the PE limit of 0.04 gr/dscf, and Respondent was therefore in violation of the terms and conditions of its PTI and ORC § 3704.05(C). Furthermore, Respondent submitted the stack test results 43 days after the test was conducted, in violation of the terms and conditions of Respondent's PTI, OAC Rule 3745-15-04(A) and ORC § 3704.05(C) and (G). Under the terms of the facility's PTI, Respondent was required to submit stack test results to Ohio EPA within 30 days of conducting the test.

4. Ohio EPA issued a Notice of Violation ("NOV") to Respondent on September 17, 2007. In the NOV, Ohio EPA detailed the violations cited above and requested that Respondent submit a compliance plan and schedule for addressing the exceedances of the PE limitation at the facility.

5. Respondent provided a compliance plan and schedule to Ohio EPA on October 9, 2007. Respondent's compliance plan called for Respondent to review its emissions unit and scrubber to determine if modifications and/or improvements can be made to bring the unit back into compliance with Respondent's PE limit. The plan also called for Respondent to perform additional stack testing.

6. On or about April 25, 2008, Respondent purchased a baghouse to replace the existing wet scrubber and control PE at the facility and conducted stack testing on June 11, 2008 to determine compliance with Respondent's PTI terms and conditions. Respondent submitted the stack test results to Ohio EPA on July 11, 2008. The stack test revealed that the actual PE were 0.110 gr/dscf, over twice as much as the PE limit of 0.04 gr/dscf and, therefore, Respondent continued to exceed the PE limit established in its PTI, and continued to be in violation of the terms and conditions of Respondent's PTI and ORC § 3704.05(C).

7. Ohio EPA issued a second NOV to Respondent on July 14, 2008. In the NOV, Ohio EPA detailed the violations cited above and requested that Respondent submit a compliance plan and schedule for addressing the exceedances of the PE limitation at the facility.

8. Respondent provided a compliance plan and schedule to Ohio EPA on August 1, 2008. In its compliance plan, Respondent committed to hiring a professional baghouse company to inspect the newly installed baghouse to ensure that it is operating properly. Respondent further indicated that it would provide the results of the baghouse investigation and any corrective measures conducted by the company to Ohio EPA with one week of occurrence. On August 27, 2008, Respondent submitted paperwork documenting where repairs were made to the baghouse. Furthermore, Respondent indicated that additional compliance stack testing would occur in spring 2009.

9. On July 30, 2009, PE testing was performed on the baghouse discharge of emissions unit P901. The test results indicated compliance with the PE limitation, with actual PE of 0.007 gr/dscf.

10. Due to Respondent's financial condition as a result of the downturn in the construction materials industry and significant expenditures made for replacement of its air pollution control equipment, a payment schedule for the civil penalty is reasonable.

11. 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 twenty thousand dollars (\$20,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Of this amount, Respondent shall pay to Ohio EPA the amount of sixteen thousand dollars (\$16,000) in accordance with the payment schedule in Order 4. Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street
Suite 700
P.O. Box 1049

2. In lieu of paying the remaining four thousand dollars (\$4,000) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment pursuant to the payment schedule in Order 4 by tendering an official check made payable to "Treasurer, State of Ohio" for \$4,000. 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.

3. A copy of each of the 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

4. Respondent shall pay the civil penalties identified in Orders 1 and 2 by no later than the deadlines specified in the following payment schedule:

- \$4,000 due to SEP bus fund per Order 2 by December 1, 2009
- \$5,000 due to Ohio EPA per Order 1 by January 1, 2010
- \$2,750 due to Ohio EPA per Order 1 by April 1, 2010
- \$2,750 due to Ohio EPA per Order 1 by July 1, 2010
- \$2,750 due to Ohio EPA per Order 1 by October 1, 2010
- \$2,750 due to Ohio EPA per Order 1 by January 1, 2011

5. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 4, Respondent shall immediately pay to Ohio EPA \$4,000 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:

Ohio EPA, Northeast District Office
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Tim Fischer

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

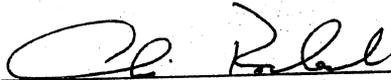
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

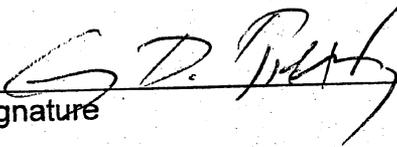


Chris Korleski
Director

_____ 11/30/09
Date

IT IS SO AGREED:

D&R Supply, Inc.



Signature

_____ 11-6-09
Date

Gary D. Radabaugh

Printed or Typed Name

President
Title



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

NOV 30 2009

The Honorable Richard Cordray
Attorney General of Ohio
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410

Re: Referral of Gary Rogers, d.b.a. Rogers Sunoco (EC Case #2800)

Dear Mr. Cordray:

Pursuant to ORC § 3704.06, I hereby request that you initiate all necessary legal and/or equitable civil actions as may be deemed necessary and seek appropriate penalties against the above-referenced party and any other appropriate party for the violations of ORC Chapter 3704 and the regulations adopted thereunder. A copy of the Division of Air Pollution Control's enforcement file is enclosed.

Thank you for your assistance in this matter. Any questions you may have should be directed to Jim Kavalec of the Division of Air Pollution ("DAPC") (644-4840). He, as well as Tom Kalman of the DAPC Enforcement Section (644-3598), should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this case with Jim Orlemann, Assistant Chief, SIP Development and Enforcement, and Enforcement Coordinator of the DAPC.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Donald L. Vanterpool, Legal Office
Jim Kavalec, DAPC
Tim Fischer, NEDO DAPC

Enclosures

CK/JK/jk

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Chris Korleski, Director 

FROM: Donald L.  Wenterpool, Staff Attorney and Jim Orlemann, DAPC
Enforcement Coordinator

SUBJECT: Recommendation for referral of Gary Rogers, d.b.a. Rogers Sunoco
to the Attorney General's Office ("AGO")

DATE: November 2, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

Attached for your review and signature is a letter to the Attorney General requesting that an enforcement action be taken against Gary Rogers, d.b.a. Rogers Sunoco and any other appropriate party for violations of ORC Chapter 3704 and OAC Rule 3745-21-09(DDD). Also, attached is an Inter-Office Communication to Dale Vitale, Chief of the Environmental Enforcement Section of the AGO, which contains a briefing of the case.

This matter is being recommended for referral to the AGO because Gary Rogers, d.b.a. Rogers Sunoco has failed to respond to the proposed Director's Final Findings and Orders dated May 1, 2009, which were sent to the company to attempt an administrative settlement of the violations of the Stage II vapor control system requirements for gasoline dispensing facilities in the ozone non-attainment areas of Ohio. Please contact one of us if you have questions.

DV/JO/JK/jk

Attachments

xc: Tom Kalman, DAPC
Jim Kavalec, DAPC

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Dale Vitale, Chief, Environmental Enforcement Section, Attorney General's Office 

FROM: Donald L. Manterpool, Staff Attorney and Jim Orlemann, DAPC Enforcement Coordinator

SUBJECT: Notes concerning the referral of Gary Rogers, d.b.a. Rogers Sunoco to the Attorney General's Office (EC Case #2800)

DATE: November 2, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

The Director of Ohio EPA is referring Gary Rogers, d.b.a. Rogers Sunoco to the Attorney General's Office ("AGO") for violations of Ohio Revised Code ("ORC") Chapter 3704 and Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD). The May 1, 2009 proposed Director's Final Findings and Orders are attached for the AGO's use in preparing a complaint and consent order. A copy of the enforcement case file is also attached. A brief summary of the case is provided below.

SYNOPSIS

- Gary Rogers, d.b.a. Rogers Sunoco, owns and operates a gasoline dispensing facility ("GDF") located at 1435 Mentor Ave., Painesville, Lake County, Ohio. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems. As part of the Stage II vapor control system requirements, this GDF is required to conduct annual Stage II compliance tests, which consist of a static leak test, an air-to-liquid ("A/L") ratio test, and a five-year dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control system is working properly to capture gasoline vapors so they do not contribute to ozone formation.
- Mr. Rogers has failed to conduct the annual Stage II static leak and A/L ratio tests, as well as the five-year dynamic pressure performance test, since at least 2003, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f) and ORC § 3704.05(G). By letters dated February 1, 2006 and October 21, 2008, Ohio EPA notified Mr. Rogers of his

Stage II vapor control system regulatory obligations pertaining to testing, inspecting, and maintaining records for this GDF. To date, no tests have been conducted.

- Mr. Rogers has also failed to obtain a Permit-to-Install-and-Operate ("PTIO) or Permit-by-Rule ("PBR") for this GDF and submit the 2006 and 2007 fee emission reports, which were due June 6, 2008, in violation of OAC Rule 3745-31-02, OAC Rule 3745-78-02(D) and (G), and ORC § 3704.05(G). The PTO for this GDF expired on August 13, 2003 and, to date, no renewal permit application was submitted.
- Proposed Director's Findings and Orders ("F&Os") were sent to Mr. Rogers on May 1, 2009. The proposed F&Os would have required Mr. Rogers to submit a permit-by-rule notification for this GDF; to demonstrate that the vapor control system was operating correctly by conducting and passing the dynamic pressure performance test, the static leak test and A/L ratio test; to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems; and for the next two ozone seasons, to perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Lastly, the proposed F&Os would have required Mr. Rogers to pay Ohio EPA a civil penalty in the amount of twenty-nine thousand two hundred and fifty dollars (\$29,250), from which five thousand eight hundred and fifty dollars (\$5,850) will go towards the Ohio EPA's Clean Diesel School Bus Program Fund. (See the attached penalty worksheets.)
- On June 4, 2009, Ohio EPA contacted Mr. Rogers who told Ohio EPA he would call back the next day to discuss the proposed F&Os. Mr. Rogers did not call back. On July 17 and 24, 2009, Ohio EPA spoke with Mr. Rogers regarding the proposed F&Os. Mr. Rogers claimed that he had an inability to pay the proposed civil penalty and indicated that he would submit the necessary information to demonstrate such. After several more attempts to reach Mr. Rogers in August and September, Ohio EPA sent a last chance letter to him on October 19, 2009. To date, Ohio EPA has received no response.

PENALTY

The calculated civil penalty used to attempt an administrative settlement was \$29,250. (See the penalty worksheets attached to the proposed F&Os.) This penalty was calculated using USEPA's civil penalty policy. The Enhanced Enforcement Protocol penalty policy for Stage II vapor control systems did not apply here since no failed test occurred. The penalty was mitigated 50% for the GDF being a small emission source. DAPC can update the penalty worksheet upon the AGO's request to reflect a new projected compliance date and a higher penalty. In the original worksheet, we had projected June 1, 2009 as when Respondent would achieve compliance if

administrative orders were agreed upon.

RECOMMENDATION

Ohio EPA is recommending that the AGO resolve this enforcement case by obtaining a consent order (or a court order, if necessary) requiring the responsible parties to comply with the actions in the proposed DFFOs and pay an appropriate civil penalty. If you have any questions, please contact one of us.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

NOV 30 2009

The Honorable Richard Cordray
Attorney General of Ohio
Environmental Enforcement Section
State Office Tower, 25th Floor
30 East Broad Street
Columbus, Ohio 43266-0410

**Re: Referral of Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care
Shell (EC Case #2801)**

Dear Mr. Cordray:

Pursuant to ORC § 3704.06, I hereby request that you initiate all necessary legal and/or equitable civil actions as may be deemed necessary and seek appropriate penalties against the above-referenced parties and any other appropriate party for the violations of ORC Chapter 3704 and the regulations adopted thereunder. A copy of the Division of Air Pollution Control's enforcement file is enclosed.

Thank you for your assistance in this matter. Any questions you may have should be directed to Jim Kavalec of the Division of Air Pollution ("DAPC") (644-4840). He, as well as Tom Kalman of the DAPC Enforcement Section (644-3598), should be kept apprised of the status of this matter and any action taken with regard to it. Please also coordinate all negotiations and any resolution of this case with Jim Orlemann, Assistant Chief, SIP Development and Enforcement, and Enforcement Coordinator of the DAPC.

Sincerely,

Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Marcus Glasgow, Legal Office
Jim Kavalec, DAPC
Tim Fischer, NEDO DAPC

Enclosures

CK/JK/jk

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Chris Korleski, Director 

FROM: Marcus Glasgow, Staff Attorney and Jim Orlemann, DAPC
Enforcement Coordinator

SUBJECT: Recommendation for referral of Alton C. Laccheo and Terry Adams,
d.b.a. Rusty's Auto Care Shell to the Attorney General's Office
("AGO")

DATE: November 2, 2009

CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD

Attached for your review and signature is a letter to the Attorney General requesting that an enforcement action be taken against Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell and any other appropriate party for violations of ORC Chapter 3704 and OAC Rule 3745-21-09(DDD). Also, attached is an Inter-Office Communication to Dale Vitale, Chief of the Environmental Enforcement Section of the AGO, which contains a briefing of the case.

This matter is being recommended for referral to the AGO because Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell have failed to respond to the proposed Director's Final Findings and Orders dated August 6, 2009, which were sent to the company to attempt an administrative settlement of the violations of the Stage II vapor control system requirements for gasoline dispensing facilities in the ozone non-attainment areas of Ohio. Please contact one of us if you have questions.

MG/JO/JK/jk

Attachments

xc: Tom Kalman, DAPC
Jim Kavalec, DAPC

Ohio EPA
Division of Air Pollution Control

INTER-OFFICE COMMUNICATION

TO: Dale Vitale, Chief, Environmental Enforcement Section, Attorney General's Office 

FROM: Marcus Glasgow, Staff Attorney and Jim Orlemann, DAPC Enforcement Coordinator

SUBJECT: Notes concerning the referral of Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell to the Attorney General's Office (EC Case #2801)

DATE: November 2, 2009

**CONFIDENTIAL: ATTORNEY-CLIENT PRIVILEGED COMMUNICATION
CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORD**

The Director of Ohio EPA is referring Alton C. Laccheo and Terry Adams, d.b.a. Rusty's Auto Care Shell ("Respondents") to the Attorney General's Office ("AGO") for violations of Ohio Revised Code ("ORC") Chapter 3704 and Ohio Administrative Code ("OAC") Rule 3745-21-09(DDD). The August 6, 2009 proposed Director's Final Findings and Orders are attached for the AGO's use in preparing a complaint and consent order. A copy of the enforcement case file is also attached. A brief summary of the case is provided below.

SYNOPSIS

- Alton C. Laccheo owns and Terry Adams operates a gasoline dispensing facility ("GDF") located at 30490 Euclid Ave., Wickliffe, Lake County. This GDF is subject to the requirements of OAC Rule 3745-21-09(DDD) concerning Stage II vapor control systems. As part of the Stage II vapor control system requirements, this GDF is required to conduct annual Stage II compliance tests, which consist of a static leak test, an air-to-liquid ("A/L") ratio test, and a five-year dynamic pressure performance test. The purpose of these tests is to ensure that the Stage II vapor control system is working properly to capture gasoline vapors so they do not contribute to ozone formation.
- On August 25, 2004, Ohio EPA conducted an inspection at this GDF to determine compliance with requirements of OAC Rule 3745-21-09(DDD). During this inspection, Ohio EPA discovered that maintenance logs were not being maintained and proof of completion of Stage II training was not available, in

violation of OAC Rule 3745-21-09(DDD)(3)(a)(iii) and (vii) and ORC § 3704.05(G). In addition, the 2004 annual static leak and A/L ratio tests had yet to be conducted. On September 10, 2004, Ohio EPA sent a notice of violation letter to Terry Adams, identifying the violations discovered during this inspection. Also, Ohio EPA notified Terry Adams that the Stage II vapor control system compliance tests needed to be conducted by December 31, 2004.

- By letters dated January 29, 2007, April 5, 2007, August 20, 2007 and October 21, 2008, Ohio EPA notified Respondents that they had failed to conduct the annual Stage II static leak and A/L ratio tests, as well as the five-year dynamic pressure performance test, since at least 2004, while causing, allowing, or permitting the transfer of gasoline from a stationary storage tank into a motor vehicle, in violation of OAC Rules 3745-21-09(DDD)(1)(c), (2)(d) and (2)(f) and ORC § 3704.05(G). To date, these tests have not been conducted and Respondents have continued to dispense gasoline in violation of these laws and regulations. Respondents have also failed submit the 2006 and 2007 fee emission reports which were due June 6, 2008, in violation of OAC Rule 3745-78-02(D) and (G) and ORC § 3704.05(G).
- Proposed Director's Findings and Orders ("F&Os") were originally sent to Mr. Greg Laccheo on May 1, 2009. After discussions with Greg Laccheo and Terry Adams, Ohio EPA discovered that Alton C. Laccheo actually owns the property and Terry Adams operates the GDF. Greg Laccheo seems to have some involvement in the management of the property but Ohio EPA has not been able to determine his role. Mr. Adams claims that Greg and Alton C. Laccheo are responsible for all testing and maintenance at this GDF. Ohio EPA sent revised proposed F&Os to both Alton C. Laccheo and Terry Adams on August 6, 2009. The proposed F&Os sent to Alton C. Laccheo came back to Ohio EPA as unclaimed so Ohio EPA resent the proposed F&Os by regular mail on September 1, 2009. To date, both parties have been non-responsive.
- The F&Os would have required Respondents to submit a permit-by-rule notification for this GDF; to demonstrate that the vapor control system was operating correctly by conducting and passing the dynamic pressure performance test, the static leak test and A/L ratio test; to conduct weekly inspections of the Stage II vapor control system for the next two ozone seasons, checking for leaks, malfunctions or damage to the systems; and for the next two ozone seasons, to perform static leak and A/L ratio tests prior to the beginning (during March) of each ozone season and during August of each ozone season. Lastly, the proposed F&Os would have required Respondents to pay Ohio EPA a civil penalty in the amount of twenty-six thousand three hundred dollars (\$26,300), from which five thousand two hundred and sixty dollars (\$5,260) will go towards the Ohio EPA's Clean Diesel School Bus Program Fund.

PENALTY

The calculated civil penalty used to attempt an administrative settlement was \$26,300. (See the penalty worksheets attached to the proposed F&Os.) This penalty was calculated using USEPA's civil penalty policy. The Enhanced Enforcement Protocol penalty policy for Stage II vapor control systems did not apply here since no failed test occurred. The penalty was mitigated 50% for the GDF being a small emission source. DAPC can update the penalty worksheet upon the AGO's request to reflect a new projected compliance date and a higher penalty. In the original worksheet, we had projected June 1, 2009 as when Respondents would achieve compliance if administrative orders were agreed upon.

RECOMMENDATION

Ohio EPA is recommending that the AGO resolve this enforcement case by obtaining a consent order (or a court order, if necessary) requiring the responsible parties to comply with the actions in the proposed DFFOs and pay an appropriate civil penalty. If you have any questions, please contact one of us.



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL

NOV 23 2009

Mr. Frank Ring
Corporate Environmental Manager
OmniSource Corporation
7575 W. Jefferson Blvd.
Fort Wayne, Indiana 46804

Re: Proposed Director's Final Findings and Orders for violations of air pollution control regulations at the Lima Division, St. Marys Division, and Mansfield Division.

Dear Mr. Ring:

My staff has informed me of the violations of Ohio Administrative Code ("OAC") Rules 3745-15-07(A), 3745-17-07(B), 3745-17-08(B), 3745-19-03(A), 3745-31-02, and former 3745-35-02 and Ohio Revised Code ("ORC") § 3704.05(G) associated with three OmniSource Corporation facilities in Ohio. These facilities are the Lima Division, St. Marys Division, and Mansfield Division. The violations are identified in the attached Director's Findings and Orders.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which include a provision for the settlement of the claims for civil penalties for the violations that occurred. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any subsequent enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include a provision for 20 percent of the total penalty amount to go toward the funding of a supplemental environmentally beneficial project involving the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This project has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particulates less than 2.5 microns in diameter). Information concerning the school bus retrofit program is provided in an enclosed document.

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Ohio EPA is an Equal Opportunity Employer

Mr. Frank Ring, Corporate Environmental Manager
OmniSource Corporation
Proposed Director's Final Findings and Orders
Page 2

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting to try to negotiate a mutually acceptable settlement, please contact Marcus Glasgow, Staff Attorney, at (614) 644-3037. If he does not hear from OmniSource Corporation within fourteen (14) days of the receipt of this letter concerning its willingness to accept the Findings and Orders as currently written, or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

I hope that OmniSource Corporation and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Muhammad Mereb, DAPC
Marcus Glasgow, Legal Office
Don Waltermeyer/Jeffrey Skebba/Paul Chad/Mohammad Smidi, NWDO

Enclosures

CK:MM:mm

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with diesel particulate filters and crankcase filters and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NO_x) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Based on the comparative effectiveness of the three types of particulate emission controls, only particulate filters and crankcase filters will be considered for this retrofit program.

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria should be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be in operation at least 4 days per week during the school year and travel at least 10,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of diesel particulate filters and crankcase filters would be acceptable for installation?

The USEPA has published a list of "Verified Retrofit Technologies." A copy of this list can be accessed at the following website:

<http://www.epa.gov/otag/retrofit/retroverifiedlist.htm>

Only the particulate filters and crankcase filters on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA,

they will be added to the list. Field experience indicates it takes six to eight hours to install one of these diesel particulate filters. Crankcase filters are relatively simple to install and are easily serviced.

5. How efficient are the diesel particulate filters and crankcase filters in reducing the particulate emissions?

The diesel particulate filters will reduce the particulate emissions in the exhaust gases by 60 to 90 percent. These control devices also will reduce the emissions of organic compounds and carbon monoxide by 60 to 90 percent. Most particulate filters come with a 100,000 to 150,000-mile warranty and have a useful life of seven to 15 years. The filtration efficiency of crankcase filters averages between 80% and 97%.

6. Is there a special type of fuel that must be used with the diesel particulate filters?

Yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

7. What costs are associated with the installation and operation of the diesel particulate filters and crankcase filters?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon. Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

8. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel particulate filters and crankcase filters. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment greater than \$5,000), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA will establish for the retrofitting of school buses.

9. How will the school systems receive the SEP monies for the diesel particulate filters and crankcase filters?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install the diesel particulate filters and crankcase filters. In the application, an eligible school system (i.e., one located in a nonattainment county for PM 2.5) must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the types of filters that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the filters, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems on a first come-first served basis as monies become available in the retrofit fund. Preference will be given to those applicants that include a commitment to implement an anti-idling program at the applicant's school system. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems.

10. What oversight will be provided by the Ohio EPA to ensure that the diesel particulate filters are installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the diesel particulate filters and crankcase filters are being installed and maintained properly and that the monies are being spent appropriately.

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

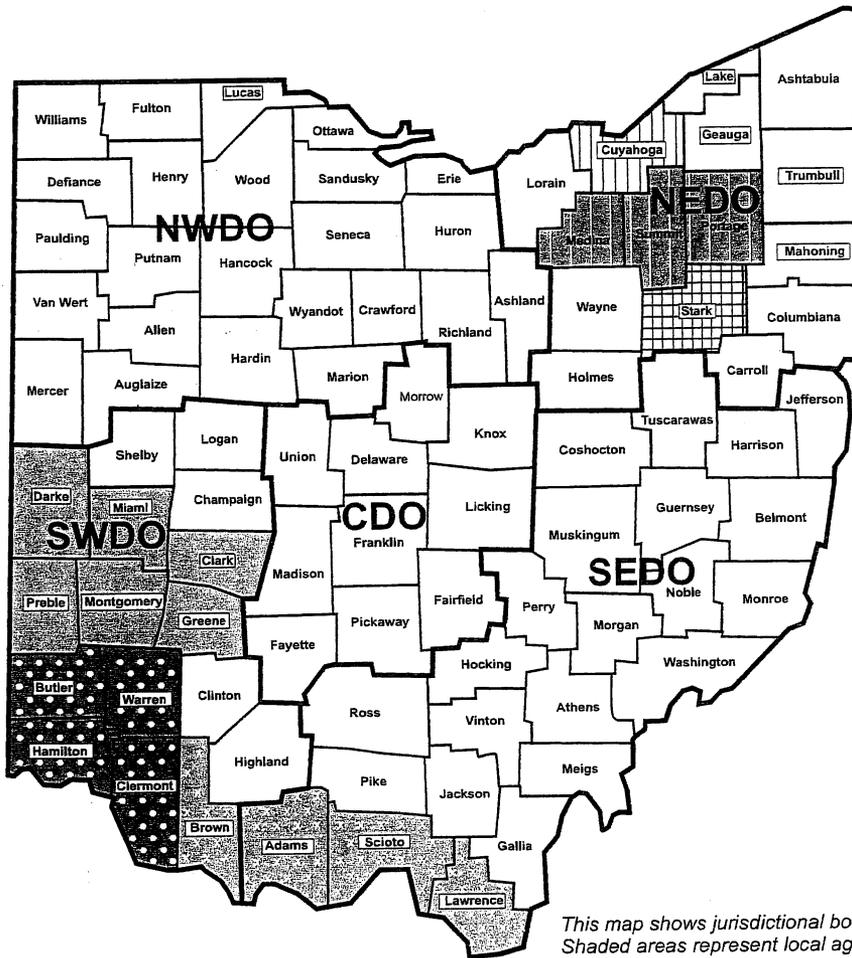
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at: <http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

CDO Adam Ward, APC Manager
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us

SEDO Bruce Weinberg, APC Manager
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us

NEDO Dennis Bush, APC Manager
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us

NWDO Mark Budge, APC Manager
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us

SWDO Tom Schneider, APC Manager
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

 **Frank Markunas, Interim Administrator**
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: markufr@ci.akron.oh.us

 **Richard L. Nemeth, Commissioner**
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

 **Cindy Charles, Director**
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

 **Dan Aleman, Administrator**
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

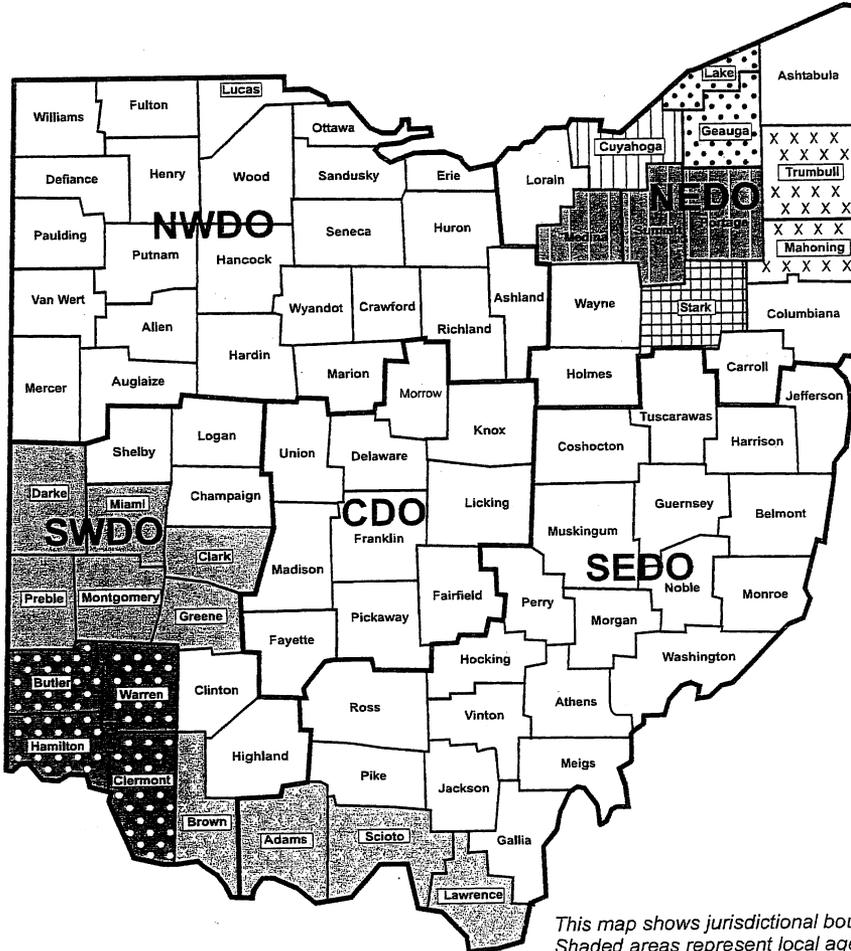
 **John Paul, Administrator**
Regional Air Pollution Control Agency
Public Health Dayton and Montgomery Cnty.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

 **Karen Granata, Administrator**
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

 **Cory R. Chadwick, Director**
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

Local Air Pollution Control Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.



District Offices

- CDO Adam Ward, APC Manager**
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us
- SEDO Bruce Weinberg, APC Manager**
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us
- NEDO Dennis Bush, APC Manager**
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us
- NWDO Mark Budge, APC Manager**
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us
- SWDO Tom Schneider, APC Manager**
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us



Frank Markunas, Interim Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: markufr@ci.akron.oh.us



Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
75 Erieview Plaza, 2nd Floor
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us



Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us



Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org



John Paul, Administrator
Regional Air Pollution Control Agency
Public Health Dayton and Montgomery Cnty.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org



Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov



Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org



Bert Mechenbier, Supervisor *
Lake County General Health District
Air Pollution Control
33 Mill Street
Painesville, Ohio 44077
(440) 350-2543 FAX (440) 350-2548
e-mail: BMechenbier@lcghd.org



Misty Koletich, Administrator *
Mahoning-Trumbull APC Agency
345 Oak Hill Ave., Suite 200
Youngstown, Ohio 44502
(330) 743-3333 FAX (330) 744-1928
e-mail: mtapca@cboss.com

*Facilities located within these jurisdictions should file air permit applications with Ohio EPA's Northeast District Office (NEDO).

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

OmniSource Corporation	:	Director's Final Findings
7575 W. Jefferson Blvd.	:	and Orders
Fort Wayne, Indiana 46804	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to OmniSource Corporation ("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 corporate office is located at 7575 W. Jefferson Blvd., Fort Wayne, Indiana. Respondent operates several scrap metal processing facilities in Ohio. These include the Lima Division, St. Marys Division, and Mansfield Division.
2. Ohio Administrative Code ("OAC") Rule 3745-31-02 requires 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 otherwise provided by rule or law.
3. Former OAC Rule 3745-35-02 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.

4. OAC Rule 3745-17-07(B)(4) states that there shall be no visible particulate emissions from any paved roadway or parking area except for a period of time not to exceed six minutes during any sixty-minute observation period.

5. OAC Rule 3745-17-07(B)(5) states that there shall be no visible particulate emissions from any unpaved roadway or parking area except for a period of time not to exceed thirteen minutes during any sixty-minute observation period.

6. 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") to prevent fugitive dust from becoming airborne.

7. OAC Rule 3745-17-08(B)(2) requires the periodic application of asphalt, oil, water, or other suitable dust suppression chemicals on dirt or gravel roads and parking lots as reasonably available control measures.

8. OAC Rule 3745-17-08(B)(7) requires the covering, at all times, of open bodied vehicles when transporting materials likely to become airborne as a reasonably available control measure.

9. OAC Rule 3745-17-08(B)(9) requires the prompt removal, in such a manner as to minimize or prevent resuspension, of earth or other material from paved streets onto which earth or other material has been deposited by trucking or earth moving equipment or erosion by water or other means.

10. OAC Rule 3745-15-07, in part, prohibits any person from causing, permitting or maintaining an air pollution nuisance, whereby the emission of any air contaminant or combinations of air contaminants, including dust, in such manner or in such amounts as to endanger the health, safety or welfare of the public, or cause unreasonable injury or damage to property.

11. OAC Rule 3745-19-03(A), in part, prohibits any person or property owner from causing or allowing open burning in a restricted area except as provided in OAC Rules 3745-19-03(B) to (D) and in ORC§ 3704.11.

12. ORC § 3704.05(G) prohibits any person from violating any OAC rule adopted by the Director of Ohio EPA. OAC Chapter 3745-15 was adopted by the Director pursuant to ORC Chapter 3704.

I. Lima Division

13. Respondent owns and operates a scrap metal recycling facility ("the facility") that is identified as the Lima Division. It is located at 1610 East 4th Street, Perry Township, Allen County, Ohio. The facility processes both ferrous and non-ferrous metals. These metals are hauled to and from the facility in large open bed trucks. The trucks travel on haul roads and a scale area inside the facility property. Fugitive dust is generated by the truck wheels on both paved and unpaved road surfaces on and off the facility property. The facility has two gates at East 4th Street, which is a public street immediately to the north of the facility. This public street is traversed by both company haul trucks as well as vehicles used by the general public. The facility is located in a non-Appendix A area with respect to the fugitive dust control requirements of OAC Rule 3745-17-08.

14. There are several residential homes near the facility and located on East 4th Street, Glenn Avenue, and Garland Avenue. Four of the homes are located on East 4th Street within 600 feet from one of the facility's gates; the closest is about 350 feet from the east gate. The haul trucks periodically may drag dirt from facility roadways onto East 4th Street, causing re-entrainment of fugitive dust from vehicles using this public street.

15. On February 22, 2006, August 16, 2006, and October 25, 2007, Ohio EPA, Division of Air Pollution Control, Northwest District Office ("NWDO") received complaints concerning excessive fugitive dust as a result of mud drag out from trucks exiting Respondent's facility onto East 4th Street.

16. In response to the complaints, NWDO representatives inspected the facility several times since February 2006. Dried mud was observed to have been deposited on East 4th Street from the trucks exiting the facility from the west gate. Visible emission ("VE") readings of the fugitive dust were conducted using U.S. EPA Reference Method 22 along East 4th Street in front of the facility. The following table shows the total time of VEs and the observation period for each date.

Date	Total time of VEs (minutes: seconds)	Observation period (minutes : seconds)
02/23/2006	10:45	22
08/18/2006	04:52	60
08/25/2006	07:33	60
10/30/2006	09:25	60
12/20/2006	01:58	60
05/09/2007	04:09	60
10/31/2007	05:12	60
04/30/2008	21:36	60
05/16/2008	03:36	60
05/23/2008	02:23	60

17. On April 30, 2008, NWDO distributed a survey to several residences in the neighborhood of Respondent's facility to assess whether the facility generated nuisance conditions. NWDO received completed surveys from eight different residents. Five of them are located on Glenn Avenue, two on East 4th Street, and one on Garland Avenue. All residents agreed that Respondent's facility is the source of the dust nuisance. As identified by the residents, the nuisance type is threefold:

- **Property damage** (5 residents)
 The residents indicated that they get dust on their houses regularly, and they have to power wash their houses several times per year. Moreover, they need to wash their cars more often.
- **Adverse effect on the comfortable enjoyment of property** (7 residents)
 The residents indicated that they can't sit outside and enjoy the outdoors the way they would like. Three of the residents indicated that they can't open the windows when the dust can reach their homes.
- **Public safety concerns** (2 residents)
 It was indicated that the trucks deposit clumps of dirt onto the road and that is a hazard that could cause an accident.

NWDO also believes that it is a public safety concern at East 4th Street when the dust emissions are blowing and causing limited visibility. Additionally, since there is a railroad track along the west boundary of the facility, a safety hazard may exist if a train is coming.

18. By not implementing adequate measures to control fugitive dust from the facility, Respondent is causing a public nuisance in violation of OAC Rule 3745-15-07.

19. NWDO sent several Notice of Violation ("NOV") letters to Respondent. The following table shows the dates of the NOV letters as well as the dates of Respondent's responses to these letters.

NOV Date	Date Respondent's Response Received (Date of Response)
03/31/2006	05/03/2006 (05/01/2006)
09/07/2006	10/13/2006 (10/11/2006)
11/07/2006	NA
10/19/2007	11/23/2007 (11/21/2007)
05/07/2008	06/10/2008 (06/09/2008)

20. The NOV letter of March 31, 2006 cited Respondent for causing a public nuisance in violation of OAC Rule 3745-15-07, and requested Respondent to submit a compliance plan to control the fugitive dust and subsequently correct the nuisance problem. The following table summarizes several specific dates Respondent has caused a public nuisance in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G):

Date	Nuisance Type and Evidence
02/23/2006	<p>Property Damage: In response to the complaint received on February 22, 2008, a representative from NWDO visited the complainant's house and he observed an excessive amount of dust on the complainant's house (porch, siding and windows). He also observed the dust blowing from East 4th Street in the direction of the complainant's house. The complainant indicated that he washed his house three times per year as a result of this dust, using equipment that he bought for his own use. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 10 minutes and 45 seconds during a 22-minute observation period.</p>
08/18/2006	<p>Property Damage: In response to a complaint received on August 16, 2008, a representative from NWDO visited the complainant's house, and he confirmed that there was an excessive amount of dirt on the complainant's house. The complainant indicated that he has to power wash his house regularly as a result of this ongoing problem. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 4 minutes and 52 seconds during a 60-minute observation period.</p> <p>The NWDO representative informed the facility manager, Mr. David Dray, that the complainant has continuing concerns about the excessive dust emissions making his house dirty and that he has to power wash the house regularly. Mr. Dray indicated that they were aware of the complaints and had issued a purchase order for a \$120,000 new sweeper to clean the concrete aprons inside the property, along with East 4th Street.</p>

10/31/2007	<p>Property Damage: In response to a complaint that was received on October 25, 2007, a representative from NWDO visited the complainant's house, and he observed an excessive amount of dust on the porch, windows, and siding. The complainant stated that he has to power wash his house regularly as a result of the excessive dust. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 5 minutes and 12 seconds during a 60-minute observation period.</p>
04/30/2008	<p>Property Damage: A representative from NWDO visited the complainant's house to follow up on a nuisance complaint. The complainant stated that the nuisance still exists and that he already power washed his house once this year. He indicated that he has been power washing his house three times per year, and he was concerned about water getting into the house insulation underneath the siding because of the high pressure (1,200 pounds per square inch). NWDO representatives took pictures of the dust accumulation on the porch and windows of the complainant's house as well as equipment in the garage. The representative also completed a videotaping that shows dust blowing in the direction of the complainant's house coming from East 4th Street.</p> <p>The NWDO distributed a dust nuisance survey in the neighborhood. In the responses to the dust nuisance survey, it was indicated by 4 residents, in addition to the complainant, that they get dust on their houses regularly and they have to power wash their houses several times per year. They also indicated that they need to wash their cars more often. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 21 minutes and 36 seconds during a 60-minute observation period.</p> <p>Public Welfare: In the dust nuisance survey, it was indicated by 7 residents that they can't sit outside and enjoy the outdoors the way they would like. Also they indicated that they can't open the windows when the dust reaches their homes.</p> <p>Public Safety: In the dust nuisance survey, it also was indicated by 2 residents that the clumps of dirt deposited by the trucks onto East 4th Street create hazardous conditions that could cause an accident.</p>

21. On April 30, 2008, NWDO representatives noticed that the existing tire grate

system has minimal use. Most haul trucks were observed exiting the facility without using the system.

22. In the June 10, 2008 response to the NOV of May 7, 2008, Respondent indicated that at the time of NWDO's inspection there was significant traffic on the haul roads and on East 4th Street which did not allow these areas to be swept or watered. Respondent suggested changing the traffic patterns within the yard to allow for sweeping and watering more frequently.

23. Respondent is currently implementing the following measures to reduce mud drag out and the subsequent fugitive dust emissions.

Measure	Purpose	Cost	Start Date
Sentinel Vacuum Sweeper	To remove dirt from concrete apron areas on the facility and from East 4 th Street.	\$120,000	09/25/2006
Tire thumper at scale	To remove mud attached to trucks tires before exiting the facility and subsequently reduce/eliminate mud drag out to East 4 th Street.	\$25,853	09/01/2008
Changed Traffic patterns	To increase the frequency of sweeping and to force vehicles to use the tire grate.	NA	06/01/2008
Water Truck	To water unpaved and paved haul roads on the facility.	NA	NA
Improved traffic surfaces inside yard	To cover unpaved roadways and subsequently prevent mud creation after rain events.	\$112,400	06/01/2008

II. St. Marys Division

24. Respondent's St. Marys facility ("the facility") is located at 4575 CR 33A, in St. Marys Township, Auglaize County, Ohio. It is a metal scrap recycling facility that processes both ferrous and non-ferrous metals. The vast majority of the material enters and leaves the facility by heavy trucks. The metals are sorted on site and then resold to the steel industry and foundries. The facility is located in a non-Appendix A area.

25. Respondent purchased the St. Marys facility from St. Marys Iron & Steel Corporation in 1989. The processes and activities conducted by St. Marys Iron & Steel Corporation included the use of conventional torches to cut various scrap metal commodities. Respondent continued to use the conventional torch cutting process after purchasing the business and facility from St. Marys Iron & Steel Corporation. Respondent began utilizing a jet torch on or around March 2003.

system for the torch. Respondent indicated that they purchased a "dust boss" (water misting system) as an interim control measure while continuing to work on a permanent control system and the permit applications.

35. On December 21, 2006, Respondent met with NWDO, and it was indicated that a budget had been approved for a portable 3-sided enclosure with a baghouse for the torch.

36. On January 19, 2007, NWDO received a complaint concerning the continued smoke from the torch cutting process. In response to this complaint, NWDO visited the site on January 24, 2007 and noticed a large plume as a result of the torch cutting process.

37. On February 1, 2007, a representative from NWDO was in the area on other business and noticed the generation of a large plume of varying colors from the torch cutting process.

38. On April 20, 2007, NWDO visited the facility and a fire resulting from using the torch to cut a mobile home roof was observed upon arrival. In response, a NOV was sent to Respondent on April 25, 2007. The NOV cited Respondent for the violation of OAC Chapter 3745-19.

39. On July 25, 2007, NWDO received a complaint concerning yellow smoke resulting from the torch cutting process at Respondent's facility.

40. On August 30, 2007, NWDO received Respondent's response to the follow-up NOV of June 27, 2007. The response included a comprehensive plan to address the open burning activities at the facility. This included the implementation of the "Prohibited Material Policy," the use of fire extinguishers and sand, and the utilization of the torch enclosure.

41. On April 16, 2008, NWDO sent a NOV to Respondent concerning the delay in installing the control measure for the jet torches. Respondent was requested to submit a compliance plan and schedule in addition to the PTI/PTO applications by May 16, 2008.

42. On May 19, 2008, NWDO received Respondent's response to the NOV of April 16, 2008 along with the PTI application. Respondent indicated that the installation of the enclosure to control the emissions from the jet torch had begun in May 2008, and the enclosure was scheduled to be operational by the end of July or the beginning of August 2008. Respondent estimated the total cost of the jet torch emission control system to be about \$146,000.

43. On May 29, 2008, Respondent informed NWDO by e-mail that it has 8 standard torches and 2 jet torches at the facility.

44. On May 30, 2008, NWDO received a complaint concerning orange/yellow smoke from Respondent's facility. The complainant listed the times and dates of 8 similar events since May 5, 2008.

45. On July 14, 2008, August 6, 2008, November 14, 2008, and January 8, 2009, Respondent updated NWDO by phone or e-mail on the status of the torch enclosure. Based on the update of January 9, 2009, the enclosure became operational on December 2008, except for a few fine-tuning adjustments to get the maximum performance.

46. The fires created by Respondent as a result of the torch cutting process are considered open burning, in violation of OAC Chapter 3745-19 and ORC § 3704.05 (G).

47. Respondent failed to apply for and obtain a PTI prior to the installation of the jet torches in 2003, in violation of OAC Rule 3745-31-02 and ORC § 3704.05 (G). The PTI application was received on May 19, 2008 and the PTIO was issued August 6, 2009.

48. Respondent failed to apply for PTO prior to the operation of the jet torches which were installed in 2003, in violation of OAC Rule 3745-35-02 and ORC § 3704.05 (G). The PTO application was received on May 19, 2008.

49. Respondent failed to employ Best Available Technology ("BAT") for the jet torch cutting operation, in violation of OAC Rule 3745-31-05(A)(3) and ORC § 3704.05 (G).

Violations concerning the mud drag-out from the facility onto CR 33A

50. Since March 24, 2006, NWDO has received several complaints concerning the emissions of fugitive dust as a result of the mud drag out from Respondent's facility onto CR 33A Street. The following table lists the dates of the complaints and the dates of the corresponding facility inspections.

Complaint Date	Inspection Date
03/24/2006	05/01/2006
05/15/2006	NA
10/27/2006	NA
11/01/2006	12/13/2006
12/14/2006	01/24/2007
NA	02/01/2007
02/26/2007	04/20/2007

51. Respondent indicated during the facility inspection of May 1, 2006, that it had a larger sweeper that broke down a year or two back. Respondent also indicated that on March 20, 2006, an outside company had been hired to come with a larger sweeper for 3 evenings a week.

52. On March 5, 2007, Respondent informed NWDO that Respondent is in the process of installing a mechanical tire thumper device in the facility as well as installing a road sweeper attachment to Respondent's front-end loader.

53. On August 7, 2009, Respondent stated that it installed/purchased the following control measures to address the VE violations at the facility:

Control Measure	Cost
Improved traffic surfaces inside yard	\$103,200
Sweeper	\$3,500
Excavation and drainage work to dry roadways	\$102,110
Creating swales to dry roadways	\$19,480
Tire thumper at scale	\$25,000

54. Respondent caused a public nuisance by generating excessive fugitive dust emissions as a result of the mud drag-out from its facility to the public road, in violation of OAC Rule 3745-15-07 and ORC § 3704.05 (G). NWDO has not received complaints since August 2008, suggesting that the new measures corrected the problems.

55. Respondent failed to apply for a PTO for its facility roadways and parking areas, in violation of OAC Rule 3745-35-02 and ORC § 3704.05 (G).

III. Mansfield Division

56. Respondent's Mansfield facility ("the facility") is located at 1500 Old Bowman Street, in Mansfield, Richland County, Ohio. This location is an Appendix A area. This metal scrap recycling facility processes both ferrous and non-ferrous metals. Scrap metal is received by truck, rail, and through public drop-off. The metals are sorted on site and then resold to the steel industry and foundries.

Fugitive Dust and Public Nuisance Violations:

57. The day-to-day activities at the facility directly impact Old Bowman Street, the paved, public street on which the facility is located. The metal is hauled to and from the facility, mainly in large, open-bed trucks. These trucks have been responsible for dragging dirt from Respondent's facility onto Old Bowman Street. Fugitive dust is generated from traffic on the road.

58. Since August 2, 2004, NWDO has received 25 complaints concerning the emissions of fugitive dust as a result of the mud drag out from Respondent's Mansfield facility onto Old Bowman Street. The following table lists the dates of the complaints and the dates of the corresponding facility inspections.

Complaint Date	Inspection Date	Complaint Date	Inspection Date
08/02/2004	08/03/2004	03/27/2007	NA
10/27/2004	11/09/2004	04/17/2007	NA
NA	02/02/2005	04/23/2007	NA
08/16/2005	NA	04/30/2007	05/03/2007
02/22/2006	02/22/2006	NA	06/14/2007
03/24/2006	NA	07/16/2007	07/24/2007
04/11/2006	NA	07/24/2007	07/24/2007
04/19/2006	NA	08/07/2007	08/16/2007
04/20/2006	NA	NA	09/05/2007
05/05/2006	NA	NA	09/28/2007
05/09/2006	05/10/2006	11/28/2007	NA
05/10/2006	05/10/2006	04/07/2008	NA
05/30/2006	05/31/2006	04/08/2008	NA
06/27/2006	07/06/2006	04/16/2008	04/30/2008
11/27/2006	NA	NA	05/06/2008

59. NWDO recorded the following VE readings using U.S. EPA Method 22, that were in violation of OAC Rules 3745-17-07(B)(4) and (5).

Date	Location	VE (minutes: seconds)	Observation (minutes)
08/03/2004	Auxiliary yard (unpaved)	14:29	30
08/03/2004	Old Bowman Street	06:17	17
11/09/2004	Old Bowman Street	13:35	20
02/22/2006	Old Bowman Street	06:42	54
05/03/2007	Old Bowman Street	06:12	41
09/28/2007	Old Bowman Street	07:34	43
05/06/2008	Old Bowman Street	05:14	45

60. NWDO observed that Respondent did not employ RACM to prevent fugitive dust from becoming airborne at its facility, in violation of OAC Rule 3745-17-08(B), on the following dates: August 3, 2004, November 9, 2004, February 22, 2006, May 31, 2006, May 3, 2007, June 14, 2007, September 28, 2007, and May 6, 2008.

61. The following table lists the dates of the NOV letters sent to Respondent by NWDO since August 2004 and the dates of Respondent's responses:

NOV Date	Response Received (Dated)
08/06/2004	08/30/2004 (08/25/2004)
11/18/2004	12/08/2004 (12/08/2004)
03/14/2006	04/19/2006
05/25/2007	09/18/2007 (09/18/2007)
10/03/2007	10/23/2007 (10/22/2007)
05/08/2008	06/02/2008 (05/29/2008)

62. The NOV letters cited the following violations by Respondent:

- Violation of OAC Rule 3745-17-07(B)(4) for visible emissions from a paved roadway (Old Bowman Street) in excess of six minutes during any sixty-minute observation period.
- Violation of OAC Rule 3745-17-07(B)(5) for visible emissions from an unpaved roadway or parking area in excess of thirteen minutes during any sixty-minute observation period.
- Violation of OAC Rule 3745-17-08(B)(2) for failure to periodically apply water or other suitable dust suppression chemicals on dirt or gravel roads and parking lots and other surfaces which can cause emissions of fugitive dust.
- Violation of OAC Rule 3745-17-08(B)(9) for failure to promptly remove earth or other material from paved streets.
- Violation of OAC Rule 3745-17-08(B)(7) for failure to cover open-bodied vehicles when transporting materials likely to become airborne.
- Violation of OAC Rule 3745-15-07 for creating a public nuisance as a result of not employing RACM. This violation was first cited in the NOV letter of March 14, 2006.

63. Respondent submitted its compliance plan on November 8, 2004, and the plan included the following:

- Apply dust suppressant on all plant roadways as needed to maintain compliance with the fugitive dust regulations and maintain a log book to document all dust suppressant applications.
- Apply stone to plant roadways as necessary to minimize dust generated by truck and equipment traffic.

- Install rumble strips at the outbound scales to assist in removal of mud and dirt from truck and trailer tires, prior to exiting the facility.
- Contract with a company to sweep Old Bowman Road three times per day (weather permitting).

64. A NOV letter was issued on March 14, 2006. In the NOV, NWDO indicated that based on the continued complaints and the recent inspection, it appeared that the control methods being employed by Respondent had been not adequate. NWDO recommended that Respondent install a truck wheel wash or similar equipment to keep debris from being deposited onto Old Bowman Road. Respondent was requested to submit a new compliance plan and schedule by April 21, 2006.

65. Respondent submitted a revised compliance plan on April 24, 2006. The draft compliance plan included the following:

- Improve drainage infrastructure near the north entrance.
- Increase the amount of concrete paving adjacent to the scales.
- Fabricate and install a tire grate adjacent to the south scales to aid in the removal of trapped tire mud.
- Improve existing drainage manholes so that they don't clog easily from mud.
- Increase frequency of mechanical and vacuum sweeping.
- Review and test various dust suppression chemicals to be applied on unpaved roadways; these include emulsified asphalt, calcium chloride, magnesium chloride, and synthetic oil-based palliative.
- Regrade all major haul roads and truck access areas with a topping of asphalt grindings.
- Review traffic patterns to maximize truck traffic through the south scale area.

66. Since August 2008 NWDO has not received complaints, suggesting that the new control measures at the facility corrected the nuisance problem. The final compliance plan was received on September 18, 2007 as part of Respondent's response to the NOV of May 25, 2007. The final compliance plan included the following:

- Order a new street sweeper (\$138,000).

- Add a new 20,000 square feet concrete surface at the southeast corner of the facility (\$192,000).
- Improve the drainage system within Old Bowman Street (\$12,000).
- Design and fabricate a mud grate/tire thumper to facilitate the removal of mud from truck tires prior to exiting the facility (\$32,000).
- Survey drainage ditch elevations and clean the ditches to facilitate proper site drainage (\$15,000).
- Install a drainage system within the facility to facilitate proper storm water collection (\$41,000).
- Install approximately 18,500 square feet of new concrete roadways within Old Bowman Street (\$121,000).
- Install approximately 7,200 square feet of new concrete parking areas between Old Bowman Street and the existing office building (\$27,000).
- Install approximately 10,000 square feet of concrete surface around the existing maintenance building (\$109,000).
- Install approximately 35,000 square feet of new concrete facility drives and a parking area around the non-ferrous warehouse and maintenance garage (\$225,000).

67. Respondent failed to submit a fugitive dust control plan within the required time frame, in violation of OAC Rule 3745-17-04(A)(1)(a). Respondent was requested to submit its compliance plan and schedule by June 29, 2007; and the plan was received by NWDO on September 18, 2007.

PTI Violations:

68. Respondent failed to apply for a PTI when the auxiliary yard was acquired in 1990, in violation of OAC Rule 3745-31-02 and former OAC Rule 3745-35-02.

69. From 2004 to MAY 3, 2007 the amount of scrap processed by Respondent increased from 8,000 tons per day to 40,000 tons per day. This change is considered to be a modification of the roadways and parking areas that would have increased fugitive particulate emissions and would have required new PTI and PTO applications. Respondent violated OAC Rule 3745-31-02 and Rule 3745-35-02.

70. On May 25, 2007, NWDO sent a NOV letter to Respondent. The NOV cited the above PTI and PTO violations. The PTI/PTIO application required in the May 25, 2007, was received by NWDO on October 25, 2007. The final PTI was issued January 10, 2008.

71. The Director has given consideration to, and based his determination on, evidence relating on technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

Unpaved Roads and Other Unpaved Surfaces with Vehicle Traffic at the Lima, St. Marys, and Mansfield Facilities

1. Respondent shall apply dust suppressants on all unpaved roads and other unpaved surfaces with vehicle traffic at the Lima, St. Marys, and Mansfield facilities in accordance with the following program, to minimize or eliminate fugitive dust emissions into the ambient air:
 - a. All unpaved roads and other unpaved surfaces with vehicle traffic shall be treated weekly with a chemical dust suppressant (petroleum resin emulsions, asphalt emulsions, acrylic cements, or surfactants), except as provided under Orders 1.e. and 1.f and 11 through 14.
 - b. Except as provided in Orders 11 through 14 below, the dust suppressant application program shall provide for the application of a dust suppressant diluted either (i) in accordance with manufacturer's specifications, if approved by Ohio EPA, or (ii) if no manufacturer's specifications are applicable, by no more than seven (7) parts water to one part chemical. The dust suppressant shall be applied either (i) in accordance with manufacturer's specifications, if approved by Ohio EPA, or (ii) if no manufacturer's specifications are applicable, at a rate of not less than 0.5 gallon per square yard of unpaved road or unpaved surface with vehicle traffic.
 - c. Respondent shall comply with a visible particulate emission of no visible emissions, except for a period of three minutes in any 60-minute observation period for the unpaved and other unpaved surfaces with vehicle traffic.

- d. Any unpaved road or other unpaved surface with vehicle traffic that becomes paved shall comply with the requirements for paved roads and other paved surfaces with vehicle traffic.
- e. Application of dust suppressant may be delayed by not more than three (3) days for any scheduled date upon which the unpaved road or other unpaved surface with vehicle traffic is snow and/or ice covered or has experienced greater than or equal to 0.25 inch of rainfall.
- f. In the event of persistent adverse weather conditions such as snow and/or ice cover or excessive rainfall, Respondent's records must document the basis for any delay of dust suppressant applications of more than three (3) days beyond the scheduled date.
- g. Respondent shall ensure the availability and required scheduling of spray trucks for the dust suppressant application measures on all unpaved roads and other unpaved surfaces with vehicle traffic at the Lima, St. Marys, and Mansfield facilities. The spray trucks shall be designed and equipped, at a minimum, with a spray bar system capable of applying the dust suppressant solution at a coverage rate of at least 1.3 gallon per square yard of surface and a certified flow metering device calibrated in units of gallons per minute. Respondent shall ensure the availability of equipment that will facilitate manual applications of the solution to areas not readily accessible by the spray truck. Respondent may contract with a third party to provide and operate the spray trucks and equipment required by this section.

2. Respondent shall maintain records relative to the above dust suppressant application program for unpaved roads and other unpaved surfaces with vehicle traffic at the Lima, St. Marys, and Mansfield facilities. These records shall include, at minimum, the following information:

- a. A meteorological log to include average daily temperature, daily precipitation, and unusual meteorological occurrences. The same log may be used to satisfy the requirements of this section and the parallel requirements in Order 7.
- b. For each dust suppressant application date, and for each unpaved road or other unpaved surfaces with vehicle traffic, the start and stop time, type of dust suppressant, amount of solution applied, and the dilution ratio of the solution.
- c. Identification of areas where manual spraying was utilized.

3. These records shall be retained by Respondent for five (5) years and shall be made available to the Director or his representative upon request.

4. Respondent shall submit reports quarterly to Ohio EPA. In the reports Respondent shall summarize the status of compliance with the requirements of Orders 1 and 2 above and describe any deviation from the control program, the reasons for such deviation, and the corrective actions taken. Respondent shall certify the reports to be accurate and submit each report within thirty (30) days after the end of each calendar quarter.

Paved Roads and Other Paved Surfaces with Vehicle Traffic at the Lima, St. Marys, and Mansfield Facilities

5. Respondent shall employ watering and vacuum sweeping measures on all paved roads and other paved surfaces with vehicle traffic at the Lima, St. Marys, and Mansfield facilities, in accordance with the following program to minimize or eliminate fugitive dust emissions into ambient air:

- a. All paved and other surfaces with vehicle traffic shall be cleaned via watering/vacuum sweeping on a daily basis on each day of plant operation, except as provided under Orders 5.a.i., 5.a.ii., and 11 through 14 below.
 - i. Daily sweeping may be suspended only when there is snow, ice cover, or standing water on the surface.
 - ii. All such suspensions shall be reported and verified as required under Orders 9 and 10.
 - iii. Irregular paved surfaces that cannot feasibly or adequately be cleaned by vacuum sweeping shall be chemically sprayed in accordance with provisions of Order 1.
- b. Respondent shall ensure the availability, required scheduling, and proper maintenance of the watering/vacuum sweeping trucks. Respondent may contract with a third party to supply and/or operate the sweeping trucks required by this section.
- c. Respondent shall comply with a visible particulate emission limitation of no visible emissions, except for a period of one minute in any 60-minute observation period for the paved roads and other paved surfaces with vehicle traffic.

6. The provisions of Order 5 are applicable to the public roadways at the exits from the Lima, St. Marys, and Mansfield facilities.

7. Respondent shall maintain daily records for the paved road cleaning program. These records shall include, at minimum, the following information:

- a. A meteorological log to include average daily temperature, daily precipitation, and unusual meteorological occurrences. The same log may be used to satisfy the requirements of this section and the parallel requirements in Order 2.
- b. Qualitative description of the road surface conditions.
- c. Start and stop times and number of passes for each paved road segment.
- d. Identification of areas where chemical treatment was utilized.

8. These records shall be retained by Respondent for five (5) years and shall be made available to Ohio EPA upon request.

9. Respondent shall submit quarterly reports to Ohio EPA. In the reports Respondent shall summarize the status of compliance with the requirements of Orders 5 and 8 above and describe any deviations from the control program, the reasons for such deviations, and the corrective actions taken. Respondent shall certify the reports to be accurate and submit each report within thirty (30) days after the end of each calendar quarter.

10. Respondent shall notify the director or his representative, in writing, of any noncompliance with Orders 5 and 8. Such notice shall be submitted within thirty (30) days of the noncompliance occurrence and shall include a detailed explanation of the cause of such noncompliance, all remedial actions required, and the date by which compliance was or will be reestablished.

Changes to Dust Control Program for Unpaved and Paved Roads and Other Unpaved and Paved Surfaces with Vehicle Traffic

11. Respondent has the right to petition Ohio EPA for written approval of alternative treatment methods, treatment schedules, and procedures or reporting requirements. No action shall be taken by Respondent in employing the alternative practices until Ohio EPA issues a written approval to Respondent. Such alternative practices must be demonstrated to Ohio EPA to result in equivalent dust control effectiveness.

12. In the event that Respondent certifies that the use of any road segment or other surface has been discontinued, the dust suppression or surface cleaning program for that surface may be terminated or reduced. In such case, Respondent shall immediately notify the Director. If Respondent, begins to use any new roadway, parking lot or other vehicular activity area, it shall notify the Director and treat or clean the road or other surface in accordance with the procedures contained herein, unless more stringent requirements are specified in any permit to install by Ohio EPA for such road or other surface pursuant to OAC Chapter 3745-31.

13. The Director or his representative shall not be precluded from requiring adjustments, including increased chemical suppressant application or cleaning, if on-site inspections reveal that the program contained herein does not prevent significant visible dust surface entrainment and emissions from a particular road segment or other surface.

14. In the event that an unpaved road or other unpaved surface with vehicle traffic that has been chemically treated becomes completely hardened and cemented by such treatment so as to become like a paved road as demonstrated by observation, compaction tests, and silt analyses, that road or other surface may be treated as a paved surface and cleaned in accordance with the procedures outlined in Order 5.

Tire Thumper

15. Respondent shall continue to operate and maintain the tire thumpers (a tire thumper is a series of steel bars mounted on a concrete base that is designed to remove the mud from the tires of the trucks when they drive over it) at the Lima, St. Marys, and Mansfield facilities in accordance with the following program, to minimize or eliminate fugitive dust emissions into ambient air and the carry-out of the surface materials from the facilities onto any public roadway:

- a. The tire thumper shall be maintained and operated in accordance with the designer's specifications and recommendations.
- b. All trucks shall use the tire thumper before exiting the facilities to any public roadway.
- c. Respondent shall maintain records of unavailability of the tire thumper. These records shall, at minimum, include the date(s), start time, end time, the reason for the unavailability, the corrective action taken, and any other control measures that were implemented during the time of the unavailability.

- d. The records in 15.c. shall be retained by Respondent for five (5) years and shall be made available to the Director or his representative upon request.
- e. Respondent shall handle the debris from maintaining and cleaning the tire thumper in a manner to minimize or eliminate fugitive dust emissions into ambient air.
- f. Respondent shall submit quarterly deviation reports identifying the days the tire thumper was not available and the facility was operating, the reason(s) for the unavailability, the corrective measure(s) taken to eliminate any problem that prevented the tire thumper from operation, and any other control measures that were implemented during the time the tire thumper was not operational.

Civil Penalties

16. Respondent shall pay the amount of three hundred twenty-five thousand and six hundred dollars (\$325,600) 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 two hundred sixty thousand four hundred and eighty dollars (\$260,480) 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

17. In lieu of paying the remaining sixty-five thousand one hundred and twenty dollars (\$65,120) of 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 \$65,120 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 \$65,120. 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.

18. 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

19. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 17, Respondent shall immediately pay to Ohio EPA \$65,120 of the civil penalty in accordance with the procedures in Order 16.

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, these obligations have been embedded in operation permits, and the Director of Ohio EPA's acknowledges, in writing, the termination 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 purposes of these Orders, a responsible official is as defined in OAC Rule 3745-33-03(D)(1) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

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:

Ohio EPA
Northwest District Office
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Jeffrey Skebba

and to:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman, Manager, Enforcement Section

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

Date

AGREED:

OmniSource Corporation

Signature

Date

Printed or Typed Name

Title

AIR CIVIL PENALTY WORK SHEET
OmniSource Corporation - Lima Division
(for settlement purposes only)

COMPONENT	SUBTOTAL	TOTAL	COMMENT
A. Benefit Component:	<u>\$0</u>	<u>\$0</u>	An economic benefit is estimated to be negligible (i.e., less than \$5,000)
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard	<u>\$5,000</u>		Minimum penalty assigned since no specific actual and allowable mass emission rates can be determined from the roadways.
b. Toxicity of pollutant:	<u>\$0</u>		not applicable
c. Sensitivity of environment	<u>\$5,000</u>		Allen County was an attainment area for PM at the time of violation.
d. Length of time of violation	<u>\$5,000</u>		Caused a public nuisance for 4 days by emitting fugitive dust in excess of regulations.
2. Importance to regulatory scheme:	<u>\$15,000</u>		Causing a public nuisance in violation of OAC Rule 3745-15-07.
3. Size of violator:	<u>\$0</u>		Size of violator is included in the combined penalty worksheet.
Total gravity component:		<u>\$30,000</u>	
Preliminary deterrence amount: (sum of benefit and gravity components)		<u>\$30,000</u>	
C. Flexibility-Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>(\$9,000)</u>		30% mitigation because the company's corporate management has taken steps to correct the problems and has been cooperative with NWDO.

COMPONENT	SUBTOTAL	TOTAL	COMMENT
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not applicable
5. Other unique factors:	<u>\$0</u>		not applicable
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$9,000)</u>	
D. Administrative Component	<u>\$0</u>		not applicable
Total Administrative Component		<u>\$0</u>	
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A + B + C + D)]		<u>\$21,000</u>	

AIR CIVIL PENALTY WORK SHEET
OmniSource Corporation - St. Marys Division
(for settlement purposes only)

COMPONENT	SUBTOTAL	TOTAL	COMMENT
A. Benefit Component:	<u>\$30,762</u>	<u>\$30,762</u>	Jet torch enclosure capital cost \$200,282. Enclosure annual operating cost \$4,500. Cost estimation date 8/7/2009. Noncompliance date 5/11/2006 (date respondent was first informed that controls were required). Return to compliance 12/1/2008. Penalty payment date 12/1/2009.
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard	<u>\$0</u>		not applicable
b. Toxicity of pollutant:	<u>\$0</u>		not applicable
c. Sensitivity of environment	<u>\$0</u>		not applicable
d. Length of time of violation	<u>\$35,000</u>		Failure to employ Best Available Technology (BAT) to the jet torching operation from 5/11/2006 (the date Respondent was informed that control measures are required for the jet torch) to 12/1/2008 (jet torch enclosure operating date), 935 days.
2. Importance to regulatory scheme:	<u>\$15,000</u>		Failure to employ BAT to the jet torching in violation of OAC Rule 3745-31-05(A)(3).
3. Size of violator:	<u>\$0</u>		Size of violator is included in the combined penalty worksheet.
Total gravity component:		<u>\$50,000</u>	
Preliminary deterrence amount: (sum of benefit and gravity components)		<u>\$80,762</u>	
C. Flexibility-Adjustment Factors:			

COMPONENT	SUBTOTAL	TOTAL	COMMENT
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>\$0</u>		not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not applicable
5. Other unique factors:	<u>\$0</u>		not applicable
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>\$0</u>	
D. Administrative Component			
PTI Violation	\$5,000		Failure to apply for and obtain PTI for the jet torch prior to installation.
PTO Violation	\$5,175		Failure to apply for PTO for the jet torch from 1/15/2006 (the due date NWDO gave Respondent to submit the PTI/PTO applications) to 11/15/2008 (6 months after 5/19/2008, the date PTI/PTO applications were received). 1,035 days at \$5/day.
Open Burning	\$4,000		Evidence of open burning on 1/4/2007, 2/1/2007, 4/20/2007, and 9/6/2007.
Total Administrative Component		<u>\$14,175</u>	
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A + B + C + D)]		<u>\$94,937</u>	

Run Name = St.Marys Divisio	
Present Values as of Noncompliance Date (NCD),	11-May-2006
A) On-Time Capital & One-Time Costs	\$125,373
B) Delay Capital & One-Time Costs	\$108,389
C) Avoided Annually Recurring Costs	\$5,573
D) Initial Economic Benefit (A-B+C)	\$22,557
E) Final Econ. Ben. at Penalty Payment Date,	
	01-Dec-2009
	\$30,762
<i>C-Corporation, w/ OH tax rates</i>	
Discount/Compound Rate	9.1%
Discount/Compound Rate Calculated By:	BEN
Compliance Date	01-Dec-2008
Capital Investment:	
Cost Estimate	\$200,282
Cost Estimate Date	07-Aug-2009
Cost Index for Inflation	PCI
Consider Future Replacement (Useful Life)	y (15)
One-Time, Nondepreciable Expenditure:	
Cost Estimate	\$0
Cost Estimate Date	N/A
Cost Index for Inflation	N/A
Tax Deductible?	N/A
Annually Recurring Costs:	
Cost Estimate	\$4,500
Cost Estimate Date	07-Aug-2009
Cost Index for Inflation	PCI
User-Customized Specific Cost Estimates:	
On-Time Capital Investment	N/A
Delay Capital Investment	
On-Time Nondepreciable Expenditure	
Delay Nondepreciable Expenditure	

AIR CIVIL PENALTY WORK SHEET
OmniSource Corporation - Mansfield Division
(for settlement purposes only)

COMPONENT	SUBTOTAL	TOTAL	COMMENT
A. Benefit Component:	<u>\$0</u>	<u>\$0</u>	An economic benefit is estimated to be negligible (i.e., less than \$5,000)
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard	<u>\$5,000</u>		Minimum penalty assigned since no specific actual and allowable mass emission rates can be determined for VE violations
b. Toxicity of pollutant:	<u>\$0</u>		not applicable
c. Sensitivity of environment	<u>\$5,000</u>		Richland County is an attainment area for PM.
d. Length of time of violation	<u>\$5,000</u>		Failure to employ RACM to prevent fugitive dust from becoming airborne for 8 days.
	<u>\$5,000</u>		Caused public nuisance for 14 days.
	<u>\$5,000</u>		VE readings above standard for 6 days.
2. Importance to regulatory scheme:	<u>\$15,000</u>		Failure to employ RACM to prevent fugitive dust from becoming airborne in violation of OAC Rule 3745-17-08(B).
	<u>\$15,000</u>		Causing a public nuisance in violation of OAC Rule 3745-15-07.
3. Size of violator:	<u>\$0</u>		Size of violator is included in the combined penalty worksheet.
Total gravity component:		<u>\$55,000</u>	
Preliminary deterrence amount: (sum of benefit and gravity components)		<u>\$55,000</u>	
C. Flexibility-Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable

COMPONENT	SUBTOTAL	TOTAL	COMMENT
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>(\$16,500)</u>		30% mitigation because the company's corporate management has taken steps to correct the problems and has been cooperative with NWDO.
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not applicable
5. Other unique factors:	<u>\$0</u>		not applicable
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$16,500)</u>	
D. Administrative Component			
PTI Violation	<u>\$10,000</u>		Failure to apply for PTI for the roadways when the auxiliary yard was acquired in 1990 (\$5,000). Failure to apply for new PTI for the roadways and parking areas when the amount of processed materials increased in 2004 (\$5,000).
PTO Violation	<u>\$7,865</u>		Failure to apply for new PTO for the roadways and parking areas as a result of the modification from 1/1/2004 (the date the modification occurred) to 4/22/2008 (6 months after 10/25/2007, the date PTO application was received). 1,573 days at \$5/day.
Total Administrative Component		<u>\$17,865</u>	
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A + B + C + D)]		<u>\$56,365</u>	

AIR CIVIL PENALTY WORK SHEET
OmniSource Corporation - Combined
(for settlement purposes only)

COMPONENT	SUBTOTAL	TOTAL	COMMENT
A. Benefit Component:		<u>\$0</u>	Lima \$0, St. Marys \$30,762, and Mansfield \$0.
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard	<u>\$10,000</u>		Lima \$5,000. St. Marys \$0, and Mansfield \$5,000.
b. Toxicity of pollutant:	<u>\$0</u>		not applicable
c. Sensitivity of environment	<u>\$10,000</u>		Lima \$5,000, St. Marys \$0, and Mansfield \$5,000.
d. Length of time of violation	<u>\$55,000</u>		Lima \$5,000, St. Marys \$35,000, and Mansfield \$15,000.
2. Importance to regulatory scheme:	<u>\$60,000</u>		Lima \$15,000, St. Marys \$15,000, and Mansfield \$30,000.
3. Size of violator:	<u>\$153,333</u>		Net worth (about \$200,000,000) is estimated to be 20% of lower bound of annual sales range (annual sales are over 1 billion dollars from Reference USA database).
Total gravity component:		<u>\$288,333</u>	
Preliminary deterrence amount: (sum of benefit and gravity components)		<u>\$288,333</u>	
C. Flexibility-Adjustment Factors:			
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>(\$25,500)</u>		Lima \$9,000, Mansfield \$16,500
3. History of noncompliance: (total gravity component times any augmentation percentage)	<u>\$0</u>		not applicable
4. Ability to pay: (any mitigation amount)	<u>\$0</u>		not applicable

COMPONENT	SUBTOTAL	TOTAL	COMMENT
5. Other unique factors:	<u>\$0</u>		not applicable
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$25,500)</u>	
D. Administrative Component			
Total Administrative Component		<u>\$32,040</u>	Lima \$0, St. Marys \$14,175, Mansfield \$17,865.
E. Initial Minimum Settlement Amount: [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A + B + C + D)]		<u>\$325,635</u>	round to \$325,600



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

NOV 23 2009

CERTIFIED MAIL

Mr. Patrick Harmon
Plant Manager
Bailey-PVS Oxides Delta LLC.
6191 County Road 10
Delta, Ohio 43515

Re: Proposed Director's Final Findings and Orders for air pollution control permit and law violations associated with Bailey-PVS Oxides Delta LLC., Fulton County, Ohio

Dear Mr. Harmon:

My staff has informed me of the violations of the terms and conditions of Permit-to-Install 03-0999, OAC Rule 3745-31-02 and ORC § 3704.05(C) and (G) associated with Bailey-PVS Oxides Delta LLC.'s facility located in Delta, Fulton County, Ohio. I understand that Bailey-PVS Oxides Delta LLC. has corrected several of the violations, but still has several matters to resolve.

In order to resolve this matter, I am proposing to issue the enclosed Findings and Orders prepared by my staff which includes a provision for the settlement of the claims for civil penalties for the violations. I am proposing the use of Findings and Orders because this is the most expeditious means of resolving the violations. Also, enclosed is an administrative enforcement process guide to facilitate your review of the proposed Findings and Orders. Because this letter and the enclosed documents summarize a proposed settlement, I consider them to be inadmissible for any purpose in any enforcement action the State may take if settlement cannot be reached.

Please note that the proposed Findings and Orders include voluntary provisions for a portion of the total civil penalty amount to go toward the funding of two supplemental environmentally beneficial projects. The first project involves diverting a portion of the total civil penalty amount toward performing a pollution prevention study at the facility to assess the feasibility of specific source emission reduction and environmentally sound

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Mr. Patrick Harmon
Plant Manager
Bailey-PVS Oxides Delta LLC.
Proposed Director's Final Findings and Orders
Page 2

project involves diverting 20 percent of the total civil penalty amount to go toward funding an Ohio EPA program for the retrofitting of school buses with control equipment to reduce diesel particulate emissions. This has the primary benefits of reducing children's exposure to harmful diesel exhaust emissions and helping attain the National Ambient Air Quality Standards for fine particulates (i.e., particles less than 2.5 microns in diameter [PM 2.5]).

Please review the attached documents carefully. If you have any questions concerning the proposed Findings and Orders, or if you would like to arrange a meeting to try to negotiate a settlement, please contact Marcus Glasgow, of the Ohio EPA Legal Office, at (614) 644-3037. If he does not hear from Bailey-PVS Oxides Delta LLC., within fourteen (14) days of receipt of this letter, concerning its willingness to accept the Findings and Orders as currently written or with mutually agreed upon modifications, I will consider alternative enforcement mechanisms including referral of the matter to the Ohio Attorney General's Office for legal action.

A copy of the Manual referenced in the proposed Findings and Orders concerning the pollution prevention study may be obtained by calling Ohio EPA's Office of Compliance Assurance and Pollution Prevention ("OCAPP") at (614)644-3469. Also, the Manual is available electronically from the OCAPP's website at www.epa.ohio.gov/portals/41/p2/P2WasMin.pdf. Information concerning the school bus retrofit program is provided in an enclosed document.

I hope that Bailey-PVS Oxides Delta LLC. and Ohio EPA are able to resolve this matter via the enclosed proposal, and I thank you in advance for your cooperation.

Sincerely,



Chris Korleski
Director

xc: Jim Orlemann, DAPC
Tom Kalman, DAPC
Jim Kavalec, DAPC
Marcus Glasgow, Legal Office
Mark Budge/Don Waltermeyer/Mark Barber,NWDO

Enclosures

CK:JK:jk

A guide to the . . .

Administrative Enforcement Process

Within the Division of Air Pollution Control

Introduction

This information sheet has been prepared to help you understand the administrative enforcement process within the Agency. With an understanding of the process and adequate preparation, you can facilitate a prompt resolution of this enforcement action. Included are answers to the questions most frequently asked by parties involved in the administrative enforcement process.

I have been working with the District Office or local air agency inspector to correct the violations. Why is an enforcement action necessary?

The Agency considers the following factors in deciding that an enforcement action is necessary: (1) Ohio EPA needs to obtain civil penalties for your violations; (2) your violations are serious; (3) you have taken too long to address the violations; (4) you need to be on a formal schedule to address the violations; (5) you have been recalcitrant in addressing the violations; and/or (6) you are a chronic violator.

Why should I try to negotiate an administrative consent order with Ohio EPA?

- Negotiating administrative findings and orders ("Order") with the Ohio EPA avoids expensive and time-consuming litigation.
- Negotiation can be a swift resolution of the State's claims against you for the non-compliance.
- We can quickly identify any obstacle to agreement.
- Negotiation can minimize or prevent any intervention by the USEPA to address the violations.

Should I continue working with the District or local air agency inspector?

Yes, the District Office or local air agency inspector is the best person to work with you to resolve the technical aspects of the violations, and prepare an acceptable control plan and schedule for submission to the Agency. Central Office personnel will also be available to provide assistance.

What should I do now that I received the proposed administrative consent order?

You should review the enclosed Order and the summary of the penalty calculation. If you accept the enclosed Order as written, sign the Order and send it within two weeks to the staff attorney referenced in the Director's letter. If you cannot accept the Order as written, the Agency would like to meet with you to discuss your concerns. Please contact the designated staff attorney at (614) 644-3037 to arrange a meeting.

If I want to have a meeting, what should I do to prepare for it?

Generally, the most productive meetings occur when both parties come prepared to discuss all issues. The Order and correspondence from the District Office or local air agency inspector contain the Agency's position. Since you were not willing to agree to the Order as written, we need to know whether you: (1) disagree with the facts outlined in the Order; (2) are not able or willing to comply with the Order; or (3) have information you feel may mitigate the civil penalty settlement amount. Send the staff attorney a written summary of your issues within two weeks from the date of the Director's letter. Additionally, if you believe you are financially unable to pay the penalty, contact the staff attorney for a list of information we need to evaluate your ability to pay.

What will happen at the meeting?

During the meeting, we will respond to any information you have provided. We are willing to work with you to arrive at mutually agreed upon modifications to the Order. Except in the most complex cases, our goal is to complete all negotiations at the meeting. If we cannot agree at the meeting and we feel we are making adequate progress, we will hold our offer of settlement open. Thereafter, if resolution of the negotiations is not achieved within the time frame agreed to by the parties at the settlement meeting or if we feel we are not making adequate progress, the offer of settlement may be withdrawn, and we may consider other enforcement alternatives, including a referral to the Office of the Attorney General.

Why do I have to pay a civil penalty?

A civil penalty is necessary to deter future violations and to remove any economic advantage you may have realized from not complying with Ohio's regulations. Instead of a full cash payment, the Agency may be willing to accept a supplemental environmentally beneficial project ("SEP"), that meets certain guidelines.

How did the DAPC arrive at the civil penalty settlement amount?

Ohio EPA relied on U.S. EPA's Air Civil Penalty Policy to calculate the penalty. The DAPC uses this Policy to ensure that we calculate penalties fairly and consistently and that the penalty is appropriate for the gravity of the violations. Enclosed is a summary of the DAPC's civil penalty settlement calculation. If you want a copy of the U.S. EPA's Air Civil Penalty Policy, contact the designated staff attorney at (614) 644-3037.

Who from Ohio EPA will be at the meeting?

Everyone necessary to resolve the matter will be at the meeting or available during the meeting to provide settlement authority. This includes the staff attorney, the District Office or local air agency inspector, and Central Office technical personnel.

Who should I bring to the meeting?

Similarly, you should bring anyone familiar with the issues as well as anyone who has the authority to settle this matter. You are welcome to be represented at this meeting by your attorney and your consultant.

News releases

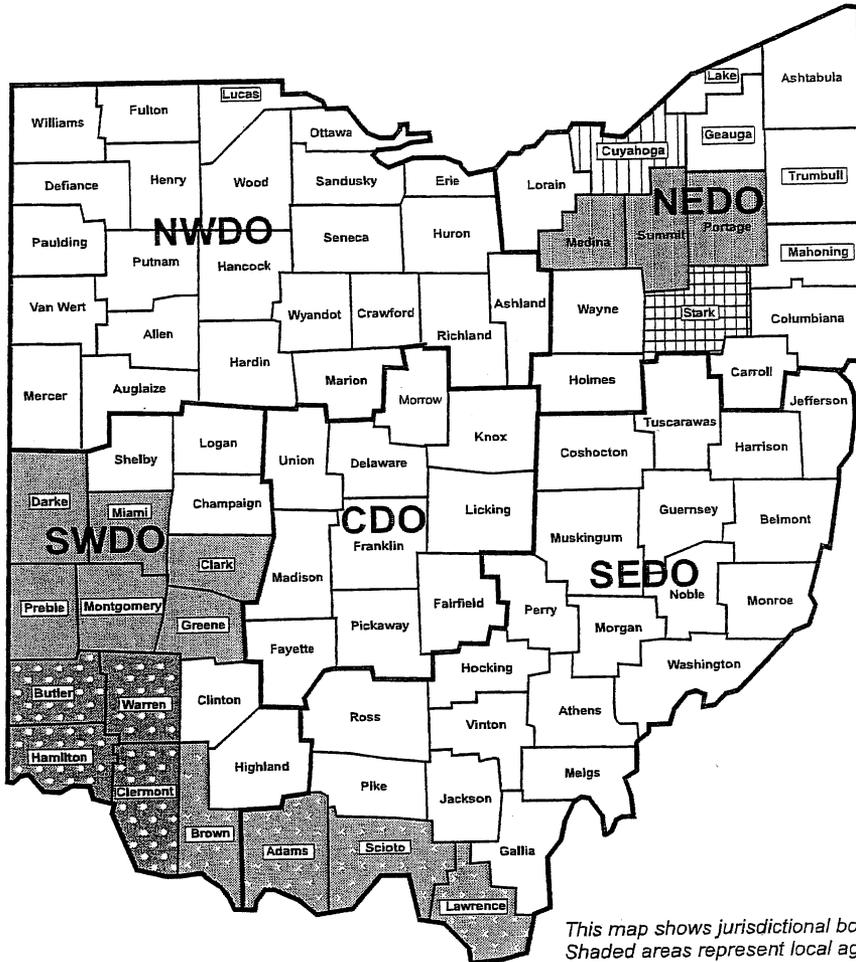
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about our enforcement efforts. Ohio EPA's news release represents our position, and so we do not negotiate the language in the news release with you. If we prepare a news release, you will receive a courtesy copy shortly before it is released to the media and posted on our web site. You can read all of our news releases at:
<http://www.epa.state.oh.us/pic/current.html>.

District Office and Local Air Agency Addresses and Phone Numbers

See the following pages.

Air Permit Review Agencies

Division of Air Pollution Control
Ohio EPA, Central Office
(614) 644-2270
www.epa.state.oh.us/dapc/general/dolaa.html



This map shows jurisdictional boundaries.
Shaded areas represent local agencies within Ohio EPA districts.

Ohio EPA

District Offices

- CDO Adam Ward, APC Manager**
01 Central District Office
50 West Town Street, Suite 700
Columbus, OH 43215
(614) 728-3778 FAX (614) 728-3898
e-mail: adam.ward@epa.state.oh.us
- SEDO Bruce Weinberg, APC Manager**
06 Southeast District Office
2195 Front St.
Logan, OH 43138
(740) 385-8501 FAX (740) 385-6490
e-mail: bruce.weinberg@epa.state.oh.us
- NEDO Dennis Bush, APC Manager**
02 Northeast District Office
2110 E. Aurora Rd.
Twinsburg, OH 44087
(330) 425-9171 FAX (330) 487-0769
e-mail: dennis.bush@epa.state.oh.us
- NWDO Mark Budge, APC Manager**
03 Northwest District Office
347 North Dunbridge Rd.
Bowling Green, OH 43402
(419) 352-8461 FAX (419) 352-8468
e-mail: mark.budge@epa.state.oh.us
- SWDO Tom Schneider, APC Manager**
05 Southwest District Office
401 E. Fifth St.
Dayton, OH 45402-2911
(937) 285-6357 FAX (937) 285-6249
e-mail: tom.schneider@epa.state.oh.us

Lynn Malcolm, Administrator
Akron Regional Air Quality
Management District
146 South High St, Room 904
Akron, Ohio 44308
(330) 375-2480 FAX (330) 375-2402
e-mail: Malcoly@ci.akron.oh.us

Dan Aleman, Administrator
Air Pollution Control Division
Canton City Health Dept.
420 Market Ave. North
Canton, Ohio 44702-1544
(330) 489-3385 FAX (330) 489-3335
e-mail: daleman@cantonhealth.org

Cory R. Chadwick, Director
Dept. of Environmental Services
Air Quality Programs
250 William Howard Taft Road
Cincinnati, Ohio 45219-2660
(513) 946-7777 FAX (513) 946-7778
e-mail: cory.chadwick@hamilton-co.org

Richard L. Nemeth, Commissioner
Cleveland Dept. of Public Health
Division of Air Quality
Penton Media Building, 4th Floor
1300 East 9th St.
Cleveland, Ohio 44114
(216) 664-2297 FAX (216) 420-8047
e-mail: Rnemeth@city.cleveland.oh.us

John Paul, Administrator
Regional Air Pollution Control Agency
Montgomery County Health Dept.
117 South Main St.
Dayton, Ohio 45422-1280
(937) 225-4435 FAX (937) 225-3486
e-mail: paulja@rapca.org

Cindy Charles, Director
Portsmouth Local Air Agency
605 Washington St., Third Floor
Portsmouth, Ohio 45662
(740) 353-5156 FAX (740) 353-3638
e-mail: cindy.charles@epa.state.oh.us

Karen Granata, Administrator
City of Toledo
Division of Environmental Services
348 South Erie Street
Toledo, Ohio 43604
(419) 936-3015 FAX (419) 936-3959
e-mail: karen.granata@toledo.oh.gov

General Guidelines for Ohio EPA's Program for the Retrofitting of School Buses with Control Equipment to Reduce Diesel Particulate Emissions

The following questions and answers explain the Ohio EPA's program for the retrofitting of school buses with emission control equipment and provide the general guidelines that must be followed by any school system that participates in the program.

1. Why is there a need to reduce diesel particulate emissions from school buses?

The exhaust gases from diesel, school bus engines contain significant amounts of organic compounds, carbon monoxide, nitrogen oxides (NOx) and fine particulates. If inhaled, the fine particulates are so small that they are able to penetrate deep into the lungs and pose serious health risks such as aggravated asthma and lung damage. In addition, USEPA has identified diesel exhaust as a likely human carcinogen. These fine particulate emissions contribute to the poor ambient air quality in 27 counties in Ohio, which currently are not meeting the national health-based ambient air quality standards for fine particulates (i.e., PM 2.5, particles less than 2.5 microns in diameter). Reducing the particulate emissions from diesel school bus engines will have two primary benefits:

- a. For the children who ride buses, it will reduce their exposure to the harmful diesel exhaust emissions. Children are more susceptible to air pollution than healthy adults because their respiratory systems are still developing and they have a faster breathing rate.
- b. It will help in attaining the National Ambient Air Quality Standards for PM 2.5 in Ohio's nonattainment counties.

2. What retrofit options are available to reduce particulate emissions from school buses?

There are three primary ways to retrofit a school bus for particulate emission control:

- a. **Diesel particulate filters** are ceramic devices that collect particulate matter in the exhaust stream. The high temperature of the exhaust heats the ceramic structure and allows the particles inside to break down into less harmful components. These filters must be used in conjunction with ultra-low sulfur diesel ("ULSD") fuel, which is a fuel with a sulfur content of less than 15 parts per million. The combination of particulate filters and ULSD fuel can reduce emissions of particulates, organic compounds, and carbon monoxide in the exhaust gases by 60 to 90 percent. Particulate filters work best on engines built after 1994 and cost \$6,500 to \$7,500.

- b. **Crankcase filtration systems** allow a diesel engine's crankcase to be closed and use an air filter to trap blow-by aerosols consisting mainly of oil droplets, with some carbon and traces of wear debris and PM10. Blow-by gas emissions can be as much as 25% of the total emissions from a diesel engine. The filtration efficiency of crankcase filters averages between 80% and 97%. The crankcase filter must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first. Crankcase filters are inexpensive (a replacement element typically costs less than \$50.00) and are best used in conjunction with some type of filtration system in the exhaust stream.
- c. **Diesel oxidation catalysts** are devices that use a chemical process to break down pollutants in the exhaust stream into less harmful components. Diesel oxidation catalysts can reduce emissions of particulates by 20 percent, hydrocarbons by 50 percent, and carbon monoxide by 40 percent. Oxidation catalysts cost \$600 to \$2,000 and can be used with regular diesel fuel.

Only control equipment found on USEPA's "Verified Technology List" may be purchased and installed (see (4) below for further details).

3. Which types of school buses will be eligible to be retrofitted with particulate emission controls?

Only school buses that meet the following criteria will be retrofitted with particulate emission controls:

- a. The school bus must be equipped with a diesel engine.
- b. The school bus must have a gross vehicle rating of 19,500 pounds or more (Types C & D).
- c. The school bus must be driven not less than 5,000 miles per year.
- d. The school bus model year must be 1994 or newer.

4. Which types of control equipment would be acceptable for installation?

The USEPA publishes a "Verified Technology List." Only control equipment found on this list may be purchased and installed. As additional technologies are found to be acceptable by the USEPA, they will be added to the list. A copy of this list can be accessed at the following web site:

<http://www.epa.gov/otaq/retrofit/retroverifiedlist.htm>.

This table summarizes all the diesel retrofit technologies that the USEPA has approved for use in engine retrofit programs. The table shows the percent reduction (from verified or tested levels) that USEPA will recognize for emission reductions for each technology.

5. Is there a special type of fuel that must be used with the control equipment?

In some cases, yes. Each bus equipped with a particulate filter must use ultra low sulfur diesel (ULSD) fuel. Because of the high sulfur content of regular diesel fuel, the use of regular diesel fuel would cause the particulate filter to clog. This, in turn, could cause exhaust back-pressure increases and engine damage. The ULSD fuel contains less than 10% of the sulfur content of regular diesel fuel. Regular diesel fuel may contain 150 to 500 ppm of sulfur, compared to the maximum of 15 ppm for the ULSD fuel. As a result of recent changes in the U.S. federal fuel standards, ULSD fuel will become the standard diesel fuel throughout the U.S. beginning in June of 2006. Many parts of the country, including certain parts of Ohio, are already being supplied with ULSD fuel. The price differential between ULSD fuel and regular diesel fuel currently ranges between eight and 25 cents per gallon. In 2006, when ULSD fuel is available nationwide, the cost differential should be much less.

Diesel oxidation catalysts and crankcase filtration systems do not require special fuel.

6. What costs are associated with the installation and operation of the emission controls?

The estimated cost to retrofit each bus with a diesel particulate filter ranges from \$6,500 to \$7,500. On an annual basis, or about every 100,000 miles, these filters must be disassembled and cleaned either with compressed air or by heating the filter in a filter cleaning device. (The cost of such a device ranges from \$300 to \$350.) The cost for the annual maintenance for each filter, which normally takes less than 3 hours to complete, will depend upon whether the work is performed by school district personnel, the engine dealer, or the filter vendor. Also, until ULSD fuel becomes available nationwide in June of 2006, there will be an increased cost for the diesel fuel burned in each retrofitted bus. The current price differential between ULSD fuel and regular diesel fuel varies between 8 and 25 cents per gallon.

Crankcase filters are fairly inexpensive (a replacement element typically costs less than \$50.00). Crankcase filters must be changed at every lube oil change (as recommended by the diesel engine manufacturer) or every 500 hours of operation, whichever comes first.

The estimated cost to retrofit each bus with a diesel oxidation catalyst ranges from \$600 to \$2,000. Installation takes approximately one to three hours to complete. Diesel oxidation catalysts do not require annual maintenance and will operate with regular diesel fuel.

7. How will the control devices be funded by the Ohio EPA?

Ohio EPA enforcement case settlements will be the source of the funding for the diesel retrofit installations. Each enforcement case resolved either through administrative Findings and Orders or a Consent Order, that contains a significant civil penalty (a total civil penalty assessment of \$5,000 or greater), will also include a Supplemental Environmental Project (SEP) that is equal in value to 20 percent of the total assessed civil penalty. The entity that is the subject of the enforcement case will be required to pay the SEP monies directly to a specific fund that Ohio EPA has established for the retrofitting of school buses.

8. How will the school systems receive the SEP monies for the diesel retrofit installations?

A school system that desires to participate in the retrofit program must apply to Ohio EPA to receive funding to purchase and install USEPA approved control equipment. Once or twice per year, the Ohio EPA will solicit applications from the eligible school systems. In the application, an eligible school system must describe the proposed project, providing details such as the number and ages of the buses to be retrofitted, the type of equipment that will be purchased and installed (must be on the USEPA-published list of "Verified Retrofit Technologies"), a schedule for installation of the equipment, and a detailed cost breakdown. Ohio EPA will evaluate each application and provide funding to applicant school systems that meet the criteria specified by Ohio EPA's regulations. Priority will be given to those applicants that are located in a nonattainment county for PM 2.5 and/or that include a commitment to implement an anti-idling program.

9. What oversight will be provided by the Ohio EPA to ensure that the diesel retrofit control equipment is installed and maintained properly?

Ohio EPA will closely track the amount of enforcement monies directed to each public school system. Each participating school system must submit regular progress reports providing information regarding the equipment purchased and installed to date, as well as a final report summarizing the project results. Periodic inspections also may be conducted by District Office or local air agency staff to confirm that the control equipment has been correctly installed, that the diesel particulate filters are being maintained properly, and that the monies are being spent appropriately.

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Bailey-PVS Oxides Delta LLC.	:	<u>Director's Final Findings</u>
6191 County Road 10	:	<u>and Orders</u>
Delta, Ohio 43515	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bailey-PVS Oxides Delta 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 or of the facility (as identified hereinafter) 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 an iron oxide reclamation and hydrochloric acid ("HCl") regeneration plant located at 6191 County Road 10, Delta, Fulton County, Ohio ("Facility"). At the Facility, Respondent receives waste pickle liquor from facilities that pickle sheet metal. The waste pickle liquor consists of a diluted HCl solution which also contains iron oxide residuals. Respondent separates and reclaims the iron oxide residuals for resale and rejuvenates the HCl to be sold back to the steel industry.

2. On March 11, 1998, Ohio EPA issued Permit-to-Install ("PTI") 03-0999 for the HCl reclamation plant, which includes a 34.2 million British thermal units per hour ("MMBtu/hr") natural gas-fired roaster, identified by Ohio EPA as emissions unit ("EU") P002. EU P002 is an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X). PTI 03-0999, in part, establishes emission limitations, operational controls and reporting requirements for EU P002. Specifically, for EU P002, the terms and conditions of PTI 03-0999 establish a chlorine ("Cl₂") emissions limitation of 1.6 parts per million by volume ("ppmv") and a HCl emissions limitation of 9.7 ppmv. On June 2, 2005, Respondent submitted a permit modification for EU P002 in which it requested that the emissions limitations for both HCl and Cl₂ be raised to 25 ppmv. Ohio EPA has preliminarily agreed to emissions limitations of 20 ppmv for HCl and 25 ppmv for Cl₂.

3. On March 5, 2007, Ohio EPA conducted an inspection at this Facility. During the inspection, Ohio EPA observed that Respondent had installed and was operating an outside iron oxide storage area and a truck load-out operation without first obtaining a PTI and permit-to-operate ("PTO"), in violation of former OAC Rules 3745-31-02 and 3745-35-02 and ORC § 3704.05(G). By letter dated March 29, 2007, Ohio EPA notified Respondent of Ohio EPA's findings from the March 5, 2007 inspection.

4. Respondent is currently operating the iron oxide storage area and the truck load-out operation without a Permit-to-Install-and-Operate ("PTIO"), in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

5. On June 21, 2007, Respondent conducted a stack test for EU P002. The average emissions concentrations based on three test runs were 16.90 ppmv for HCl and 80.6 ppmv for Cl₂. The average emissions concentrations exceeded the emissions limitations of 9.7 ppmv for HCl and 1.6 ppmv for Cl₂, in violation of the terms and conditions of PTI 03-0999 and ORC § 3704.05(C). By letters dated August 24 and August 27, 2007, Ohio EPA notified Respondent of these violations.

6. On February 7, 2008, Respondent conducted another stack test at this Facility. The average emissions concentrations based on three test runs were 10.49 ppmv for HCl and 5.06 ppmv for Cl₂. The average emissions concentrations exceeded the emissions limitations of 9.7 ppmv for HCl and 1.6 ppmv for Cl₂, in violation of the terms and conditions of PTI 03-0999 and ORC § 3704.05(C). By letter dated April 17, 2008, Ohio EPA notified Respondent of these violations.

7. On June 18, 2008 and February 26, 2009, Ohio EPA conducted compliance inspections at the Facility and noted that Respondent has continued to operate the truck load-out operation; therefore, Respondent has continued to operate an outside iron oxide storage area and truck load-out operation without obtaining a PTIO, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

8. By letter dated April 28, 2009, Ohio EPA requested that Respondent submit, to Ohio EPA, an update on the removal of the iron oxide from the outside storage area. To date, Ohio EPA has not received this information from Respondent.

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. Within thirty (30) days after the effective date of these Orders, Respondent shall submit, to Ohio EPA, complete and approvable PTIO applications for the outside iron oxide storage area and the truck load-out operation.

2. Respondent shall pay the amount of one hundred twelve thousand dollars (\$112,000) 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 seventy-four thousand six hundred dollars (\$74,600) 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 thirty-seven thousand four hundred dollars (\$37,400) of the civil penalty to Ohio EPA, Respondent shall fund the supplemental environmental projects ("SEPs") identified in Orders 4 and 5. Of the \$37,400, \$22,400 shall be used to fund the project identified in Order 4, and \$15,000 shall be used to fund the project identified in Order 5. In the event Respondent defaults or otherwise fails to complete any of the projects as specified in Orders 4 and 5, the \$22,400 for the project in Order 4 and/or the \$15,000 for the project in Order 5, 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.

4. Respondent shall fund a SEP by making a contribution in the amount of \$22,400 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 \$22,400. 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.

5. 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 \$15,000 of the 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, 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.

6. Within thirty (30) days of the completion and approval by Ohio EPA of the project identified in Order 5, 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 \$15,000, Respondent shall submit, along with the final report identified in Order 5 and in the manner described in Order 2, an official check to Ohio EPA for the difference in cost between \$15,000 and the total cost of the P2 Study.

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:

Ohio Environmental Protection Agency
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attn: Don Waltermeyer

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

Date

AGREED:

Bailey-PVS Oxides Delta LLC.

Signature

Date

Printed or Typed Name

Title

AIR CIVIL PENALTY WORK SHEET

Bailey-PVS Oxides Delta LLC.
6191 County Road 10, Delta, Ohio
(for settlement purposes only)

A. Benefit Component:		\$0	Economic benefit is negligible (i.e., < \$5,000).
B. Gravity Component:			
1. Actual or possible harm:			
a. Amount above standard:	\$40,000		The highest value exceeding the proposed emission limit for EU P002 was 80.6 ppmv for Cl ₂ . The proposed emissions limit is 25.0 ppmv. $[(80.6 - 25.0)/25.0] \times 100 = 222\%$ above the standard.
b. Toxicity:	\$30,000		For EU P002, 2 HAPs (HCl and Cl ₂) are in the emissions. \$15,000 penalty per HAP.
c. Sensitivity of the environment:	\$0		Not applicable
d. Length of violation:	\$12,000		For EU P002, Respondent operated 103 days, >3 months, from 10/27/07 to 2/7/08, which was the date it passed the emissions test.
2. Importance to the regulatory scheme:			
a. Testing violation:	\$0		Not applicable
b. Emissions control equipment violation:	\$0		Not applicable
c. Violation of an administrative order:	\$0		Not applicable
d. Rule violations:	\$0		Not applicable
e. Reporting violations:	\$0		Not applicable
f. Record-keeping violations:	\$0		Not applicable
g. Compliance certification violations:	\$0		Not applicable
h. Title V compliance schedule violations:	\$0		Not applicable
3. Size of violator:	\$10,000		Net worth (about \$1,500,000) is estimated at 20% of annual sales

			(annual sales are \$5,000,000 to \$10,000,000 from Reference USA database; average is \$7,500,000).
Preliminary Deterrence Amount		\$92,000	
Initial Gravity Component:		\$92,000	
C. Adjustment Factors:	\$0		Not applicable
1. Degree of willfulness or negligence: (total gravity component times any augmentation percentage)			
2. Degree of cooperation: (total gravity component times any mitigation percentage)	\$0		Not applicable
3. History of noncompliance: (total gravity component times any augmentation percentage)	\$0		Not applicable
4. Ability to pay: (any mitigation amount)	\$0		Not applicable
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	\$0		Not applicable
D. Adjusted Gravity Component:		\$92,000	
E. Administrative Component:		\$20,300	
1. Installation of a source without first obtaining a permit-to-install ("PTI") or permit-to-install-and-operate ("PTIO").	\$5,000		Respondent was operating an outside iron oxide storage area and a truck load-out operation without first obtaining a PTI or PTIO, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G). Two emissions units at \$2,500 each.
2. Operation of a source without obtaining a permit-to-operate ("PTO") or PTIO.	\$15,300		From 10/27/07 until the present (*11/30/09), 765 days, Respondent was operating an outside iron oxide storage area and a truck load-out operation without first obtaining a PTO or PTIO, in violation of former OAC Rule 3745-35-02(A), OAC Rule 3745-31-02 and ORC § 3704.05(G). (765 days x \$10/day x 2 sources)
F. Initial Settlement Amount:		\$112,300	Rounded to \$112,000

*Projected compliance date.