

# AGENDA FOR THE OCTOBER 22, 2009 EC MEETING

## CASES TO BE CLOSED:

Stein, Inc.	#2710	Cleveland	Final F&Os	John/Bryan
Joseph and Marie Eberz	#2851	Akron	Unil. F&Os	Tom/Steve

## PENDING CASES:

Fairport Yachts, Ltd.	#2638	NEDO	DWL	Tom/Marc
Emery Oleochemicals, LLC (HPV)	#2723	HAMCO	Prop. F&Os	Tom/Don
Evonik Degussa Engineered Carbons Corporation (HPV)	#2783	SEDO	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) Distribute updated schedule of progress on resolving all "old" cases for 2011.
- (5) **Marc is scheduled to provide food for today's meeting at 3:00 p.m. in DAPC Rm C.**
- (6) The next EC meeting is scheduled for Thursday, November 5, 2009 at 3:00 p.m. in DAPC Rm C. Tom (with Steve substituting) is scheduled for food. (Future food schedule: Steve (with Tom substituting) for November 19; Jim for December 3)

# ENFORCEMENT COMMITTEE MEETING MINUTES

(October 22, 2009)

<b>Case Number:</b> 2710	<b>Dates:</b>
<b>Entity:</b> Stein, Inc.	<b>EAR:</b> 03/14/08
<b>Field Office:</b> CDAQ	<b>DWL:</b> N/A
<b>Contact:</b> Eric Yates/John Paulian	<b>F&amp;Os:</b> 10/13/09 (final)
<b>Attorney:</b> Bryan Zima	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** On August 11, 2008, proposed Director's Final Findings and Orders ("F&Os") were issued to Stein, Inc. The F&Os proposed to require Stein to pay a civil penalty of \$85,000, of which 20% would be directed to fund Ohio EPA's Clean Diesel School Bus Program. The F&Os also proposed to require Stein to resubmit a Title V permit application to clarify any remaining permitting issues.

Stein recycles and reuses spent slag material, providing its services to the steel mill industry. Specifically, Stein processes slag generated by ArcelorMittal Cleveland's basic oxygen ("BOF") and blast furnace operations. Stein's facility is located at 2032 Campbell Road, Cleveland, Cuyahoga County (Ohio EPA facility ID# 1318003929).

On August 13, 2004, Stein applied for a Title V permit, which was issued on March 2, 2006.

On July 25, 2007, CDAQ inspected Stein's facility and discovered five sources operating without being included in the Title V permit and one source operating in a different location than what was identified in the Title V permit application. Specifically, CDAQ determined that the #2 BOF slag pits (west side), blast furnace pits (C5 and C6), drop ball operation (west side), and skim pot dumping (west side) were all operating without a Title V permit or a timely filed Title V permit application, in violation of OAC Rule 3745-77-02(A) and ORC § 3704.05(J). Additionally, the #1 BOF slag pits (east side) were incorrectly identified in the Title V permit application as the #2 BOF slag pits.

On January 3, 2008, Stein submitted an amended Title V permit application that included the above emissions units. However, Stein has not yet submitted a

modification request for the Title V permit to correct the discrepancy between the location of the #1 and #2 BOF slag pits.

The Title V permit issued on March 2, 2006 requires that Stein submit quarterly deviation reports for emissions units F006 (slag crushing, screening, and handling), F007 (oversized slag processing), and F009 (material handling). From March 2, 2006 until July 25, 2007, Stein failed to submit quarterly deviation reports for each of the above emissions units, in violation of the terms and conditions of the Title V permit and ORC § 3704.05(J)(2).

After settlement negotiations, Stein agreed to pay a civil penalty of \$50,000. The original penalty amount was mitigated due to some confusion in identifying emissions units in the Title V permit and the fact that Stein has returned to compliance.

**Action:** On October 13, 2009, final F&Os were issued to Stein. The F&Os require Stein to pay a civil penalty of \$50,000, of which 20% (\$10,000) is due within 30 days of the effective date of the F&Os and will be directed to fund Ohio EPA's Clean Diesel School Bus Program. The remaining \$40,000 of the penalty is to be paid in four installments of \$10,000 each and are due by 210, 300, 390 and 480 days after the effective date of the F&Os. **Case Closed**



<b>Case Number:</b> 2851	<b>Dates:</b>
<b>Entity:</b> Joseph and Marie Ebertz	<b>EAR:</b> 08/10/09
<b>Field Office:</b> Akron	<b>DWL:</b> N/A
<b>Contact:</b> Jim Kavalec/Tom Kalman	<b>F&amp;Os:</b> 10/19/09 (unil.)
<b>Attorney:</b> Stephen Feldmann	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Joseph and Marie Eberz own the residential property located at 715 Eastview Drive, Springfield Township, Summit County, Ohio. The property is located in a "restricted area" as defined in the open burning rules of OAC Chapter 3745-19.

Sometime between May 5 through 9, 2008, open burning for waste disposal of roofing shingles, building materials, and yard waste occurred at the property, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). A Notice of Violation ("NOV") letter

was sent to Joseph and Marie Eberz for this violation on May 16, 2008, and contained a request to cease such burning.

On May 15, 2009, open burning of building materials again occurred at the property, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). This fire was put out by the Springfield Township Fire Department. Another NOV letter was sent to Joseph and Marie Eberz on June 4, 2009. The Eberzs responded in a letter dated July 7, 2009, indicating the illegal open burning would not happen again.

On August 10, 2009, the Akron Regional Air Quality Management District (“ARAQMD”) submitted an Enforcement Action Request to Central Office, in which unilateral Director’s Final Findings and Orders (“F&Os”) were requested.

**Action:** On October 19, 2009, unilateral F&Os were issued to Joseph and Marie Eberz. The F&Os require them to pay Ohio EPA a civil penalty of \$500 within 30 days after the effective date of the F&Os. The penalty is based on the provisions of OAC Rule 3745-19-06, with a penalty factor of \$250 per day per violation and for two violations, i.e., the May 5 through 9, 2008 violation (viewed as one day of violation since the actual time of occurrence was not known) and the May 15, 2009 violation. Although the Eberzs committed to not perform any illegal open burning in the future in their reply to the June 4, 2009 NOV letter, it was decided to pursue penalties for the violations that occurred because the first violation involved a large fire and the second violation occurred after a previous warning letter. **Case Closed**



<b>Case Number:</b> 2638	<b>Dates:</b>
<b>Entity:</b> Fairport Yachts, Ltd.	<b>EAR:</b> 07/02/07
<b>Field Office:</b> NEDO	<b>DWL:</b> 09/24/09
<b>Contact:</b> Patty Porter/Tom Kalman	<b>F&amp;Os:</b>
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Fairport Yachts, Ltd. (“Fairport”) owns and operates a boat manufacturing facility located at 1920 Fairport-Nursery Road, Fairport Harbor, Ohio. It is a subsidiary of Novis Marine, LTD, which was formed in 2005 when Fairport Yachts and Novis Composites were consolidated. At the facility, Fairport employs four air contaminant sources, i.e., fiberglass lamination with polyester resin (gel coat, spray-up

and resin hand layup) (emissions unit P001); striping of fiberglass sailboat hulls (emissions unit R001); woodworking sailboat cabinet components (emissions unit P002); and varnishing woodwork and cabinets (emissions unit R002).

Based on compliance monitoring inspections at the facility by the Northeast District Office ("NEDO") of Ohio EPA and USEPA on January 27, 1998, February 12, 2002, and June 19, 2003, Fairport violated record-keeping, monitoring, and reporting requirements, exceeded organic compound emission limits, and violated permitting requirements for installing and operating emissions units without permits to install and operate. Also, this facility appears to be a minor source, but information on hazardous air pollutants ("HAPs") has not been submitted by Fairport despite numerous requests by NEDO in NOV's dated June 19, 2003, November 18, 2004, and April 5, 2005, and two additional requests on May 31, 2005 and June 14, 2005. Specifically, the facility has not submitted a facility-wide potential to emit ("PTE") analysis for individual and combined HAPs to confirm area source status for the Maximum Achievable Control Technology ("MACT") requirements for boat manufacturing.

On July 2, 2007, NEDO submitted an Enforcement Action Request to Central Office for the violations. It indicated the lack of response by Fairport to providing information on its complete compliance status and requested that the violations be addressed by Findings and Orders with a compliance schedule.

After an internal review of the enforcement files submitted by NEDO to Central Office, DAPC decided to recommend to the Director that a Director's request for information letter be sent to Fairport to obtain all of the information necessary to complete Central Office's investigation.

**Action:** On September 24, 2009, a Director's request for information letter was sent to Fairport under the authority of OAC Rule 3745-15-03(A) and ORC § 3704.03(I). The letter requests the submission of the following information by October 15, 2009:

- (1) facility-wide emission calculations for the actual and PTE of volatile organic compounds, single and combined HAPs, in terms of rolling, 12-month averages, for each of the years 1998 to June 2009;
- (2) short-term emission rates expressed in pounds per hour and pounds per day of individual and combined HAPs and VOC and the basis for the use of any emission factors;
- (3) identification of any installation of a new source or modification of an existing source and the change in emissions rates due to the installation or modification;

- (4) a detailed description of the 70,000 square foot expansion of the facility and its effect on the facility's PTE;
- (5) emission calculations for the use of all epoxies, catalyzers, and/or any additives used in the process and justification for such calculations;
- (6) a detailed description of any inherent physical limitations used to limit the PTE for the facility for any particular year and the effect on the PTE;
- (7) records to demonstrate that any annual and/or short-term limitations on the facility's PTE were not exceeded and that the major source applicability thresholds, on a rolling, 12-month average basis, were not exceeded;
- (8) an explanation of the liner process and its emissions and specific information on the closed mold infusion molding process;
- (9) information on any modifications to the lacquer operations;
- (10) the emission factors that were used to determine compliance with the organic compound emission limitations;
- (11) a description of usage of chopper guns and resins and additives employed and detailed emission calculations on each gun;
- (12) the annual amount, type and VOC and HAP content of the resins, catalysts and solvents used or purchased since 1998 to June 2009;
- (13) the detailed calculations used to derive the annual HAP and OC emission estimates per a June 11, 2008 letter; and
- (14) the date the resin transfer mold was installed and the basis for any emission estimates.

For purposes of the MACT and Title V, the letter requests Fairport to demonstrate that the facility is not a major source using one of two methods provided in the MACT.

Fairport received the letter by certified mail on September 29, 2009.

**Case Continued**



<b>Case Number:</b> 2723	<b>Dates:</b>
<b>Entity:</b> Emery Oleochemicals LLC (HPV)	<b>EAR:</b> 05/19/08
<b>Field Office:</b> HAMCO	<b>DWL:</b> N/A
<b>Contact:</b> Patty Porter/Tom Kalman	<b>F&amp;Os:</b> 10/16/09 (prop.)
<b>Attorney:</b> Donald L. Vanterpool	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Emery Oleochemicals LLC (“Emery”) owns and operates a chemical manufacturing facility located at 4900 Este Avenue, Cincinnati, Ohio. At this facility, azelaic and pelargonic acids are produced in two similar, but separate processes referred to as ozonolysis process II (building 60) and ozonolysis III (building 68), which are identified by Ohio EPA as emissions units P010 and P017, respectively. Organic compound (“OC”) emissions from emissions units P010 and P017 each were controlled with separate packed tower scrubbers and catalytic oxidizers operating in series. Emissions units P010 and P017 are now controlled by regenerative thermal oxidizers (“RTOs”). Additionally, Emery operates a 38.2 million Btu per hour (“MMBtu/hr”) coal/fuel oil-fired boiler (boiler #2, emissions unit B028) that is equipped with a baghouse for particulate emission (“PE”) control.

In November 2008 through a name change only sale, the former Cognis Corporation (“Cognis”) finalized sale of its interest. The name change to Emery Oleochemicals LLC became effective on May 15, 2009.

Emery was required by PTI #14-4576 and its Title V permit to comply with specified OC emission limitations and to conduct stack testing to demonstrate compliance for the ozonolysis processes. Emery failed to demonstrate compliance with the OC emission limitations for emissions units P010 and P017. Emery made several modifications to the process control equipment including agreeing to operate the primary and secondary control equipment in series and to conduct quarterly compliance tests. On December 29, 2006, Ohio EPA and Emery entered into consensual Finding and Orders (“2006 Orders”) to resolve these OC emission violations.

Emery failed to demonstrate that emissions unit P017 was in compliance with the OC emission limitation during the quarterly stack test conducted in June 2007. Additionally, emissions units P010 and P017 both failed the September 2007 quarterly stack tests.

On or around May 2005, Ohio EPA promulgated VOC RACT rules for areas that were determined to be nonattainment, including Hamilton County. OAC Rules 3745-21-13 and 3745-21-16 imposed VOC emission control requirements for various types of organic chemical manufacturing processes and included a compliance deadline date of May 27, 2006. On November 10, 2003, USEPA promulgated the Miscellaneous Organic NESHAP (“MON”) for the same processes and with similar control requirements; however, the compliance deadline was not until May 10, 2008. On May 10, 2006, Emery requested that the May 27, 2006 compliance deadline specified in OAC Rules 3745-21-13 and 3745-21-16, be extended to September 30, 2007, to allow time to evaluate the complex processes and determine the best compliance option to comply with these rules and the MON. Ohio EPA did not respond to Emery’s

compliance deadline extension request. (Later it was determined that Cognis's waste management process was not subject to OAC Rule 3745-21-16 and that the process vents associated with emissions units P010 and P017 are subject to OAC Rule 3745-21-13.)

In the third quarter of 2007, Emery installed RTOs to replace the primary and secondary control equipment serving emissions units P010 and P017. In January 2008, Emery demonstrated that the two processes were in compliance with the OC emission limitations, OAC Rule 3745-21-13, and the MON, while being controlled by the RTOs.

On January 1, 2008, Emery (then Cognis) reported to Hamilton County Department of Environmental Services that on January 1, 2008, emissions unit P017 had operated for 72 hours with its emissions bypassing the RTO. Cognis claimed that operator error was the reason why the emissions were not being controlled. This resulted in uncontrolled emissions being emitted at a rate that would exceed the OC emission limitation contained in Emery's PTI and Title V permit. However, no separate penalty is being assessed for this violation because it is in the same time period as the OC emission violation identified by the quarterly stack test mentioned above.

On January 20, 1981, Ohio EPA issued PTI #14-312 authorizing the installation of boiler #2. The PTI limited boiler #2's PE to 0.06 pound per million Btu ("lb/MMBtu") of actual heat input. Emery's Title V permits (both the original, issued on April 29, 2003, and the renewal issued on October 22, 2007) contained the same limitation and required Emery to conduct compliance testing within one year of permit issuance and within 6 months of permit expiration.

Emery's original Title V operating permit, issued on April 29, 2003, required that compliance with the PE limitation for boiler #2 be determined by stack testing. Emery failed to demonstrate compliance; however, these violations were resolved through the issuance of the 2006 Orders.

On May 14, 2008, Emery again tested boiler #2 and failed to demonstrate compliance with the PE limitation; but was able to demonstrate compliance with the PE limitation on August 15, 2008.

Emery's failure to comply with the OC emission limitations specified in the PTI and Title V permit for emissions units P010 and P017 are violations of ORC § 3704.05(C) and (J)(2). The violations occurred from September 6, 2007 for emissions unit P010 and June 6, 2007 for emissions unit P017, after the required compliance date specified in the 2006 Orders, and continued until compliance was demonstrated again in January

2008, excluding the time the emissions units did not operate during the installation of the RTOs.

Emery failed to demonstrate that boiler #2 was in compliance with the PE limitation contained in its PTI and Title V permit, in violation of ORC § 3704.05(C) and (J)(2), from the first failed stack test and continued in violation until compliance was demonstrated on August 15, 2008, excluding approximately one month that the boiler was not operated. The economic benefit for the delayed compliance associated with this violation was calculated to be less than \$5,000 (i.e., negligible under the penalty policy).

Emery also failed to timely comply with the requirements of OAC Rule 3745-21-13, in violation of ORC § 3704.05(G). However, no penalties are being assessed for the delayed compliance for the following reasons:

- (1) The request for the extension was received on May 10, 2006. Ohio EPA did not respond to the extension request, leaving Emery to assume the extension was approved. However, Emery worked diligently to install control equipment and achieve compliance.
- (2) It is believed the request should have been granted because the existing control equipment met the intent of the RACT rule for existing "combustion" control equipment, in that it was designed to operate at a control efficiency of at least 90 percent. However, because one component of the existing control devices (i.e., the scrubbers) was not classified as a "combustion device," Emery was required to meet the higher control efficiency requirement. The existing control devices were not designed to achieve the higher efficiency requirement; therefore, Emery was required to install new control equipment (i.e., the RTOs).
- (3) The evaluation to determine what processes were subject to the rule involved very complex and time consuming evaluations, for which the rule did not appear to allow sufficient time.
- (4) Based on similar control requirements specified in the MON rule and the 4.5 years allowed for sources to achieve compliance, it is believed that Emery's claim that it would have been virtually impossible to comply with the RACT rule within the specified short time frame is justified.
- (5) If Ohio EPA did not intend to grant the extension, the failure to timely comply should have been addressed in the 2006 F&Os because the compliance

deadline specified in the rule was May 27, 2006, and the F&Os were issued in December 2006.

- (6) Emery claimed that the extension would not result in a significant ambient air impact because the existing control devices were operated until the more efficient RTOs were installed. Ohio EPA does not have any information to confirm or refute this statement.
- (7) It is unreasonable to not allow a facility sufficient time to carefully evaluate the installation of expensive control equipment. Failure to grant the extension could have resulted in Emery incurring undo expense by installing control devices that may have not have satisfied one or both of the rules (i.e., the MON and/or the RACT rules). By delaying and carefully evaluating the control options, Emery was able to ensure that the chosen control option met both rules.
- (8) The delay resulted in Emery achieving early compliance with the MON rule, even though the delay resulted in late compliance with RACT rule.

On May 19, 2008, Hamilton County Department of Environmental Services submitted an Enforcement Action Request to Central Office for the violations.

**Action:** On October 16, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Emery to attempt an administrative settlement of the violations. The F&Os propose to require Emery to pay a civil penalty of \$242,000 in the following manner:

- (1) \$193,600 payable to Ohio EPA within 14 days after the effective date of the F&Os; and
- (2) \$48,400 payable to Ohio EPA's Clean Diesel School Bus Program Fund as a SEP, within 14 days after the effective date of the F&Os.

In a letter dated November 3, 2006, Emery stated that it would be installing RTOs in the third quarter of 2007 to comply with the OC emission limitations, Ohio RACT rule, and the MON. The MON requires existing major sources, such as Emery's facility, to reduce HAPs by more than 98 percent by weight or to reduce the concentration of HAPs to less than 20 ppm by volume as organic HAP or OC emissions by May 10, 2008. These limitations are more stringent than the limitations associated with the violations contained in these proposed F&Os. Therefore, the main driving force behind the installation of the RTOs was the MON rule. Additionally, compliance was achieved with the PTI limits with the previous control equipment and economic benefit penalties for the

delayed use of the previous control equipment were contained in the 2006 Orders. For these reasons, no economic benefit component for the installation of the RTOs was included in the F&Os penalty calculations.

The gravity component of the civil penalty was mitigated by 30 percent for Emery's cooperation. Additionally, the gravity component was mitigated by 25 percent for the relatively small amount of non-complying emissions that occurred during the noncompliance periods. **Case Continued**



<b>Case Number:</b> 2783	<b>Dates:</b>
<b>Entity:</b> Evonik Degussa Engineered Carbons Corporation	<b>EAR:</b> 11/26/08
<b>Field Office:</b> SEDO	<b>DWL:</b> N/A
<b>Contact:</b> Tan Tran/Tom Kalman	<b>F&amp;Os:</b> 10/22/09 (prop.)
<b>Attorney:</b> Marcus Glasgow	<b>Referral:</b> N/A
	<b>Dismissal:</b> N/A

**Background:** Evonik Degussa Engineered Carbons Corporation ("Degussa") owns and operates a facility at 11135 State Route 7 in Belpre (Washington County), Ohio, that processes fuel stock into carbon black. At the facility, Degussa employs four carbon black production units ("units 1 through 4"), which are identified by Ohio EPA as emissions units P001, P002, P011 and P012. Carbon black produced in emissions units P001 and P002 are further processed in dryers (emissions units P005 and P006). Emissions units P001 and P002 are vented to a common flare for oxidation, while emissions units P011 and P012 are vented to a common thermal incinerator for oxidation.

On December 31, 2002, a Title V permit was issued to Degussa by Ohio EPA. The permit expired on December 31, 2007; however, pursuant to OAC Rule 3745-77-08(E)(1), the requirements of the expired Title V permit remain in effect until the Director takes final action on the timely filed renewal permit application submitted by Degussa.

On November 29, 2007, a PTI modification was issued by Ohio EPA to Degussa for emissions units P001, P002, P011 and P012. The PTI modification increased the sulfur content limitation of the feedstock oil from 3 to 4 percent, established the combined allowable emission rates for nitrogen oxides ("NOX") and volatile organic compounds

("VOCs") for emissions units P001 and P002 at 43.7 pounds per hour and 9.4 pounds per hour, respectively, and established the combined allowable emission rates for NOx and VOC for emissions units P011 and P012 at 37.0 pounds per hour and 10 pounds per hour, respectively.

The Title V permit requires that the average combustion temperature within the thermal incinerator serving emissions units P011 and P012, for any three-hour block of time when an emissions unit is in operation, not be more than 50 degrees Fahrenheit below the average temperature during the most recent emission test that demonstrated the emissions units were in compliance (average test temperature was 1,632 degrees Fahrenheit on January 10, 2008). Degussa violated this requirement. There were 906 hours of operation in the 1<sup>st</sup> quarter of 2008, 1,715 hours of operation in the 2<sup>nd</sup> quarter of 2008, 1,608 hours of operation in the 3<sup>rd</sup> quarter of 2008, and 537 hours of operation in the 4<sup>th</sup> quarter of 2008 during which Degussa failed to maintain the average combustion temperature inside the thermal incinerator serving emissions units P011 and P012 within the required range, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2). On March 17, 2009, another stack test was performed for emissions units P011 and P012 during which compliance with emission limitations was demonstrated at a new lower incinerator temperature of 1,461 degrees Fahrenheit.

Degussa performed stack tests on emissions units P001 and P002 on January 10, 2008 and found the actual NOx and VOC emission rates to be 52.8 pounds per hour and 11.4 pounds per hour, respectively. These results exceeded the allowable NOx and VOC emission rates of 43.7 pounds per hour and 9.4 pounds per hour, respectively, in violation of the PTI modification and ORC § 3704.05(C). A retest was conducted on May 7, 2008, and compliance was shown, with actual NOx and VOC emission rates of 5.3 pounds per hour and 9.2 pounds per hour, respectively.

The Title V permit and OAC Rule 3745-15-06(B)(1) require Degussa to immediately notify Ohio EPA of any reportable malfunctions. Degussa failed to verbally notify Ohio EPA on October 16, 20 and 31 and November 5, 2008 of five malfunctions concerning emissions units F003 and/or F004, in violation of the Title V permit and OAC Rule 3745-15-06(B)(1).

On March 17 and November 20, 2008, and March 4, 2009, Southeast District Office of Ohio EPA ("SEDO") issued three notice of violation letters to Degussa for the above-mentioned violations.

On November 26, 2008, SEDO submitted an Enforcement Action Request to Central Office for the violations.

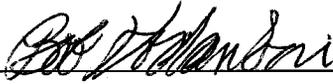
**Action:** On October 22, 2009, proposed Director's Final Findings and Orders ("F&Os") were sent to Degussa to attempt an administrative settlement of the violations. The F&Os propose to require Degussa to pay a civil penalty of \$58,000 in the following manner:

- (1) \$36,400 payable to Ohio EPA within 30 days after the effective date of the F&Os;
- (2) \$11,600 payable 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
- (3) \$10,000 payable toward the performance of a pollution prevention study of the facility and the completion of such study within 330 days after the effective date of the F&Os.

The penalty (\$23,000) for the violations of the combustion temperature restriction for the incinerator for emissions units P011 and P012 was mitigated by 65 percent (\$14,950) due to the subsequent complying VOC emission test at a lower average combustion temperature. **Case Continued**



ACTIONS & MINUTES APPROVED BY:

  
\_\_\_\_\_  
Bob Hodanbosi, Chief, DAPC

**NEXT MEETING:**

October 22, 2009

3:00 pm

6C

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Total Unresolved Cases (100)

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
2618	TRC Industries	Akron	SF/MM	03/03/06	05/04/07
2638	Fairport Yachts, LTD (multi-media)	NEDO	MG/PP	01/27/98	07/02/07
2657	Environmental Affairs Management, Inc. (asbestos)	M-TAPCA	SF/FU	06/07/07	08/17/07
2671	Mar-Zane, Inc. (Plant #1)	CDO	MG/JP	12/11/06	10/25/07
2676	OmniSource Corporation - Lima Division	NWDO	MG/MM	02/23/06	11/08/07
2679	Rascal House Pizza / Cardinal Environmental Services, Inc. (asbestos)	Cleve.	BZ/EY	03/02/07	12/04/07
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
2707	Thermo-Rite Manufacturing Co. (HPV)	Akron	MG/UD	02/12/08	03/12/08
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/All-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/JP	08/01/07	07/18/08
2744	The Afcose Group (asbestos)	NEDO	BZ/JK	02/14/08	08/06/08

Updated: 10/22/09

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2745	OmniSource Corporation	NWDO	MG/MM	12/14/05	08/11/08
2748	Great Plains Exploration, LLC	NEDO	BZ/UD	05/01/08	08/27/08
2750 (VC)	New Day Farms, LLC / Henning Construction Company	CDO	SF/JP	08/21/08	08/21/08
2752	Allied Corporation (Plant #75)	Akron	MG/JP	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
2776	Circle K (GDF's #5204, 5209, 5318, and 5320)	NEDO	MG/JK	03/15/07	11/04/08
2777	Sawbrook Steel LLC	HAMCO	BZ/MM	11/13/06	11/07/08
2779 (112r)	Sunoco, Inc. R & M (Toledo Refinery)	N/A	DV/KJ	04/29/08	11/14/08
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
2786	D & R Supply, Inc.	NEDO	MG/UD	09/17/07	12/24/08
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/UD	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
2800	Gary Rogers, d.b.a. Rogers Sunoco	NEDO	DV/JK	10/21/08	02/24/09
2801	Terry Adams, d.b.a. Rusty's Auto Care Shell	NEDO	MG/JK	01/29/07	02/25/09
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

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
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
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	EI 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)	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

## PENDING AIR ENFORCEMENT COMMITTEE CASES

Case #	Facility Name	Field Office	Atty./Staff	Zero Date for SOL	EAR Date Received
2843	Bruewer Woodwork Mfg. Co. (FER case)	HAMCO	MG/UD	06/06/08	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	AOHW 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
2855	Lakeside Fuel Mini-Mart	NEDO	DV/JK	02/09/09	09/09/09
2856	Dorothy Jeannine Slessman	NWDO	MG/MM	08/02/09	09/14/09
2857	Pure Gas Incorporated (North Ridge Road GDF and East Erie St. GDF in Lorain)	NEDO	SF/JK	09/09/09	09/22/09
2858	Burnham Foundry, LLC	SEDO	DV/TK	04/01/08	09/22/09
2859	Rollin Cooke, d.b.a. Concord Sunoco and Cooke's Service	NEDO	MG/JK	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
2863	Circle K (4 GDFs)	HAMCO	MG/JK	05/28/08	08/01/09
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		09/02/09
2868	Endres Processing Ohio, LLC	NWDO	BZ/JP	07/30/09	10/06/09
2869	Bridgestone APM Company, Foam Products Division	NWDO	DV/EY	02/11/08	10/06/09
2870	Simon Excavating	NWDO	MG/		10/15/09

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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>January</b>													
		0					UK						

Total for the month of January =

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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>February</b>													
2736	Emanuel Hadgigeorgiou d.b.a. Society Dry Cleaners	3	Cleve.	JP	EY	DV	07/03/08						02/12/09
2747	Tri-County Concrete Co., Inc.	1	Akron	TK	MM	DV	08/19/08			Closed - NPA	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**

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>March</b>													
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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>April</b>													
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**

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>May</b>													
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**

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>June</b>													
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**

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>July</b>													
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 Citgo	1	NEDO	TK	JK	SF	02/26/09			Closed-NFA	07/16/09		
2809	Procex, Ltd.	3	Akron	TK	MM	MG	03/16/09						07/07/09
2831	Aleris International, Inc./IMCO Recycling of Ohio,	3	SEDO	TK	TK	MG	06/19/09						07/07/09

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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
	Inc./Common-wealth Aluminum Concast of Ohio, Inc.												
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**

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>August</b>													
2761	Cleveland Board of Education (E-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		08/04/09 (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			Dismissed	08/14/09		
2807	Hishan Jundi, 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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>September</b>													
2666	James Conley	1	SWDO	JP	EY	BZ	09/25/07			Closed-NFA	09/24/09		
2733	McCarthy Corporation	3	NWDO	TK	UD	SF	06/23/08			Unilateral F&Os		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	
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	1	NEDO	TK	JK	SF	07/14/09		08/12/09 DWL	Closed-NFA	09/24/09		

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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
	Duchess												

Total for the month of September = 9

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

Docket Number	Case Name	Rank	Field Office	EC Contact	Staff	Attorney	Complaint/Referral	Returned to Field Office	Warning Letter	Status	Source in Compliance	Director's F & O's	Referred To AGO
<b>October</b>													
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 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.

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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 <sup>2</sup> reports			07/28/04		07/26/04
				10/28/04		10/25/04
				01/28/05		01/21/05
	Submit cost of P <sup>2</sup> study		03/28/05		N/A	
		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**	
	\$826.00	489990	12/24/05	Y	UNC**	
*****						
C & J Contractors (12/21/04)	Civil penalty: (\$5,600.00)	479998	01/21/05	Y	*	
* This account is Certified and still open--various payments have been made (10/05-05/06) totaling \$2,150, leaving a balance of \$3,450.						
*****						
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	
		\$21,250	726464	09/01/09	
		\$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 <sup>2</sup> report			11/24/05	
	Submit P <sup>2</sup> report			02/24/06	
	Submit final P <sup>2</sup> 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	

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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	01/25/06
	\$1,000	541434	02/27/06	02/25/06	

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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	

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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 <sub>2</sub> 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

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

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Alpha-Omega Chemical Company (12/14/06)	OEPA	\$1,000	605635	05/14/07		Civil penalty	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

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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 <sup>2</sup> report			03/29/07	03/29/07
	Submit detailed P <sup>2</sup> report			06/29/07	
	Submit detailed P <sup>2</sup> report			09/29/07	
	Submit final P <sup>2</sup> 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 <sup>2</sup> report			02/08/07	
	Submit P <sup>2</sup> report			05/08/07	
	Submit P <sup>2</sup> report			08/08/07	
	Submit final P <sup>2</sup> 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 NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/08	12/10/08
	Install controls to meet .060 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/11	
	Submit plan to meet .044 lb NO <sub>x</sub> /MMBtu for heaters and boilers			12/31/10	
	Install controls to meet .044 lb NO <sub>x</sub> /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 NO <sub>x</sub> concentration emissions for the FCCU thru optimization of O <sub>2</sub> CS			03/01/12	
	Submit report that demonstrates compliance w/ <u>interim</u> NO <sub>x</sub> system-wide average for FCCUs			03/31/11	
	Submit report that demonstrates compliance w/ final NO <sub>x</sub> system-wide average for FCCUs			03/31/14	
	Commence implementation of SO <sub>2</sub> 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 <sub>2</sub> 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 <sub>2</sub> 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 <sub>2</sub> limit		11/01/10		
	Submit a complete T5 permit application for Consent Decree SO <sub>2</sub> 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		02/07/08
		\$ 600.00 645339	02/29/08		03/12/08
		\$ 600.00 645340	03/30/08		05/05/08
		\$ 600.00 645341	04/29/08		06/09/08
		\$ 600.00 645342	05/29/08		07/03/08
		\$ 600.00 645343	06/28/08		08/04/08
		\$ 600.00 645344	07/28/08		09/11/08
		\$ 600.00 645345	08/27/08		11/17/08
		\$ 600.00 645346	09/26/08		01/13/09
		\$ 600.00 645347	10/26/08	Y	
		\$ 600.00 645348	11/25/08	Y	
		\$ 600.00 645349	12/25/08	Y	
		\$ 600.00 645350	01/24/09	Y	
		\$ 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	
		\$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	
*****					

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	
	Bus Fund	\$12,000	711746		04/24/09	
	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	
	Bus Fund	\$24,000	712640		05/02/09	
	ODNR	\$24,000			05/02/09	
	Comply w/ short-term and long-term SO <sub>2</sub> 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 <sub>2</sub> 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)				05/14/09	
	Report the results of vehicle inspections				12/31/09	
*****						
George Rank (04/16/09)	Civil penalty: (\$500)				05/16/09	
*****						
Richard Morrow (05/01/09)	Civil penalty: (\$3,000)				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
Tim Davidson (05/21/09)	Civil penalty: (\$3,000)	714624	06/21/09		07/06/09
*****					
Container Recyclers, Inc. (d.b.a. Colimbus Steel Drum) (06/08/09 Amended Consent Order for stipulated penalties)	Stipulated penalty: (\$87,050) OEPA Bus Fund	\$21,762.50 \$21,762.50 \$21,762.50 \$10,881.25 \$10,881.25	713429 713430 713431 713432 713433	10/23/09 01/18/10 04/16/10 06/05/09 07/17/09	06/01/09 07/16/09
*****					
Plasti-Kote Company, Inc. (06/17/09)	Civil penalty: (\$240,000) OEPA Bus Fund Submit either a Title V permit app or a synthetic minor PTI/FESOP app	\$192,000 \$48,000	714631 714632	07/01/09 07/17/09 10/17/09	08/21/09 08/21/09
*****					
T.S. Trim Industries, Inc. (06/17/09)	Civil penalty: (\$85,200) OEPA Bus Fund Conduct emission tests Submit test report	\$68,160 \$17,040	714704 714705	07/17/09 07/17/09 08/07/09 09/07/09	06/25/09 06/25/09
*****					
Village of Gloria Glens (06/18/09)	Civil penalty: (\$250) Have all vehicles tested and report results		714659	07/18/09 12/31/09	
*****					
Village of North Randall (06/30/09)	Civil penalty: (\$1,500) Have all vehicles tested and report results		714660	07/30/09 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 Bus Fund	\$4,500 \$7,500 \$3,000	715181 715182 715183	09/15/09 09/15/10 09/15/09	09/14/09 09/14/09
*****					
Village of Oakwood (07/07/09)	Civil penalty: (\$2,500) Have all vehicles tested and report results		714842	08/07/09 11/02/09	08/17/09
*****					

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 <sub>2</sub> 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	
*****					
Lepi Enterprises, Inc. (09/08/09)	Civil penalty: (\$3,750)		726529	10/08/09	09/11/09
*****					
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		10/01/09	
	Bus Fund	\$1,000		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	10/05/09	09/29/09
	Bus Fund	\$7,176	727239	10/22/09	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	
*****					
Eramet Marietta, Inc. (10/07/09)	Civil penalty: (\$30,000)				
	OEPA	\$24,000		10/21/09	
	Bus Fund	\$6,000		11/06/09	
	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		11/13/09	10/23/09
	OEPA	\$10,000		05/13/10	
		\$10,000		08/13/10	
		\$10,000		11/13/10	
	\$10,000		02/13/11		
*****					
Joseph and Marie Eberz (10/19/09)	Civil penalty: (\$500)			11/19/09	
*****					
CertainTeed Corp (10/19/09 - CO)	Civil penalty: (\$230,000)				
	OEPA	\$184,000		11/19/09	
	Bus Fund	\$ 46,000		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		

\*\*\*\*\*

- \*\* 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

October 13, 2009

**Certified Mail**

Mr. William V. Shaklee, Esq.  
Squires, Sanders, & Dempsey, LLP  
4800 Key Tower  
127 Public Square  
Cleveland, Ohio 44114

Re: Final Findings and Orders for  
Violations of Ohio's Air Regulations  
for Stein, Inc., 2032 Campbell Road,  
Cleveland, Ohio

Dear Mr. Shaklee:

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. *for*  
Assistant Chief  
SIP Development & Enforcement Section  
Division of Air Pollution Control

JAO/jp

Enclosure

xc: Carol Hester, PIC  
Tom Kalman, DAPC  
Bryan Zima, Legal Office  
Brenda Case, Fiscal Office (Agency #13)  
Priscilla Roberson, DAPC  
John Paulian, DAPC  
Eric Yates, DAPC  
George Baker, Cleveland DAQ  
Mr. James Conlon, Stein

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

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source shall not operate such source after the date that a timely and complete Title V permit application is required to be submitted to the Director of the Ohio EPA.

5. On July 25, 2007, CDAQ inspected Respondent's Facility and discovered five sources operating without being included in the Title V permit and one source operating in a different location than what was identified in the Title V permit application. Specifically, CDAQ determined that the #2 BOF slag pits (west side), blast furnace pits (C5 and C6), drop ball operation (west side), and skim pot dumping (west side) were all operating without applying for a Title V permit, in violation of OAC Rule 3745-77-03(a). Additionally, the #1 BOF slag pits (east side) were incorrectly identified in the Title V permit application as the #2 BOF slag pits.

6. On January 3, 2008, Respondent submitted an amended Title V permit application that included the above emissions units.

7. ORC Section 3704.05(J)(2) states, in part, that no person who is the holder of a Title V permit shall violate any applicable requirement of the Title V permit.

8. The Title V permit issued on March 2, 2006 requires that Respondent submit quarterly deviation reports for emissions units F006 (slag crushing, screening, and handling), F007 (oversized slag processing), and F009 (material handling).

9. From March 2, 2006 until July 25, 2007, Respondent failed to submit quarterly deviation reports for each of the above emissions units, in violation of the terms and conditions of the Title V permit and ORC Section 3704.05(J)(2).

10. On September 18, 2007, CDAQ sent a NOV to Respondent for the above violations.

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 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 fifty thousand dollars (\$50,000) in settlement of Ohio EPA's claim for civil penalties. Of this amount, Respondent shall pay to Ohio EPA the amount of forty thousand dollars (\$40,000) in accordance with the payment schedule in Order 2. 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

A copy of each check 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

2. Respondent shall comply with the following payment schedule for the civil penalty identified in Order 1, which is payable to Ohio EPA:

Payment Deadline	Amount Due
within 210 days after the effective date of these Orders	\$10,000
within 300 days after the effective date of these Orders	\$10,000
within 390 days after the effective date of these Orders	\$10,000
within 480 days after the effective date of these Orders	\$10,000

3. In lieu of paying the remaining ten thousand one hundred dollars (\$10,000) of the civil penalty, Respondent shall within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$10,000. 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  
50 West Town Street  
Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe set forth in Order 3, Respondent shall immediately pay to Ohio EPA \$10,000 of the civil penalty in accordance with the procedures in Order 1 and within thirty (30) days of the effective date of these Orders.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the valid 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 Respondent's activities at the 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. 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:

City of Cleveland  
Division of Air Quality  
1925 St. Clair Avenue  
Cleveland, Ohio 44114  
Attn: Linda Kimmy

and to:

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

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:**

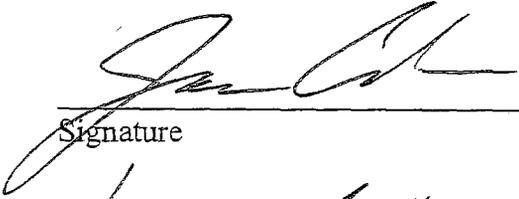
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Chris Korleski  
Director

9/29/09  
Date

**AGREED:**

Stein, Inc.

  
\_\_\_\_\_  
Signature

9/23/09  
Date

JAMES CONLON  
Printed or Typed Name

V.P. 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

OHIO EPA MAILING ADDRESS:

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

OCT 19 2009 ENTERED DIRECTOR'S JOURNAL

**CERTIFIED MAIL**

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.

Joseph and Marie Eberz  
715 Eastview Drive  
Akron, Ohio 44312

By: J. Lassiter Date: 10-19-09

**Re:** Director's Final Findings and Orders for the violations of Ohio Administrative Code Chapter 3745-19 for open burning at 715 Eastview Drive, Springfield Township, Summit County, Ohio

Dear Mr. and Ms. Eberz:

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

These Orders are being issued pursuant to OAC Rule 3745-19-06(A) which states that the Director of Ohio EPA may assess a violator not more than two hundred and fifty dollars (\$250) per day for each separate violation of the rules in this Chapter for open burning on residential property. A copy of this rule is attached.

Should you fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of Ohio Revised Code § 3704.06, the Director may request that the Attorney General pursue legal action and seek civil penalties of up to \$25,000 per day of violation.

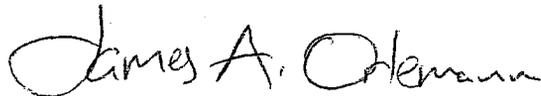
You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission ("Commission") pursuant to Ohio Revised Code § 3745.04. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

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

Environmental Review Appeals Commission  
309 South Fourth Street, Room 222  
Columbus, OH 43215

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,

A handwritten signature in cursive script that reads "James A. Orlemann".

James A. Orlemann, P.E.  
Assistant Chief  
SIP Development and Enforcement

JO:JK:jk

Enclosures

xc: Priscilla Roberson, DAPC  
Brenda Case, Fiscal  
Stephen Feldmann, Legal Office  
Tom Kalman, DAPC  
Jim Kavalec, DAPC  
Frank Markunas/Bonetta Guyette, ARAQMD

**Open burning unilateral order.**

- (A) The director may assess and collect administrative penalties from any person who violates any of the rules in this chapter. Through unilateral orders, the director may assess a violator not more than two hundred-fifty dollars per day for each separate violation of the rules in this chapter for open burning on residential property and not more than one thousand dollars per day for each separate violation of the rules in this chapter for open burning on industrial, commercial, institutional, or municipal property. Commercial property includes construction sites, including, but not limited to, the construction of residential homes, if the sites are not properly permitted under section 3704.11(C) of the Revised Code. A separate violation is assessed for each day (24-hour period) the violation occurs.
- (B) The director's authority under paragraph (A) of this rule is in addition to, and not in limitation of, the director's authority under section 3704.06 of the Revised Code to request the attorney general to initiate legal action to seek penalties of not more than twenty-five thousand dollars for each day of each violation for the violation of rules in this chapter.

3745-19-06

2

Effective: 07/07/2006

R.C. 119.032 review dates: 07/07/2011

CERTIFIED ELECTRONICALLY

Certification

06/27/2006

Date

Promulgated Under: 119.03  
Statutory Authority: R.C. Section 3704.03(E)  
Rule Amplifies: R.C. Section 3704.03(A), 3704.03(E)

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Joseph and Marie Eberz	:	<u>Director's Final Findings</u>
715 Eastview Drive	:	<u>and Orders</u>
Akron, Ohio 44312	:	

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Joseph and Marie Eberz ("Respondents") 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 Respondents and heirs and successors in interest liable under Ohio law.

**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. Respondents own the property located at 715 Eastview Drive, Springfield Township, Summit County, Ohio. The property is residential and is located in a "restricted area" as defined in Ohio Administrative Code ("OAC") Rule 3745-19-01(J).

2. OAC Rule 3745-19-03(A) prohibits "open burning," as defined in OAC Rule 3745-19-01(H), in a restricted area except as otherwise provided in OAC Rule 3745-19-03(B) to (D) and ORC § 3704.11. The provisions of OAC Rule 3745-19-03(B) to (D) and ORC § 3704.11 do not provide for the open burning of roofing shingles, other building material wastes, and yard wastes for disposal in a restricted area.

3. ORC § 3704.05(G) states, in part, that no person or property owner shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. OAC Chapter 3745-19 was adopted by the Director pursuant to ORC

Chapter 3704.

4. On May 12, 2008, the Akron Regional Air Quality Management District ("ARAQMD"), a contractual agent for Ohio EPA in Summit County, received a complaint that Respondents had open burned roofing shingles, building materials and yard waste at Respondents' property located at 715 Eastview Drive between May 5 and May 9, 2008. On May 13, 2008, ARAQMD conducted a complaint investigation and verified a large burn pile behind Respondents' house. During the May 13, 2008 investigation, ARAQMD left a written order for Respondents to cease all illegal open burning activities. On May 16, 2008, ARAQMD sent a notice of violation letter to Respondents for the open burning violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G) identified above. On May 20, 2008, ARAQMD conducted a re-inspection and observed partially burned roofing shingles and other debris on the burn pile, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G).

5. On May 15, 2009, the Springfield Township Fire Department responded to an open burning incident at Respondents' property located at 715 Eastview Drive. Upon arrival, the Springfield Township Fire Department discovered a burn pile with a small fire and ample smoke. The Springfield Township Fire Department extinguished the fire and notified Respondents of the open burning regulations.

6. On June 2, 2009, ARAQMD investigated the May 15, 2009, open burning incident and verified that Respondents had unlawfully open burned building materials for disposal purposes, in violation of OAC Rule 3745-19-03(A) and ORC § 3704.05(G). By letter dated June 4, 2009, ARAQMD sent a notice of violation letter to Respondents for the open burning violation.

7. On July 7, 2009, ARAQMD received a letter from Respondent Joseph Eberz stating, in part, that Respondents would "make sure that the illegal open burn will not happen again."

8. Based on the above Findings, the Director of Ohio EPA finds that Respondents violated the following ORC law and OAC rule:

- ORC § 3704.05(G), for violating a rule the Director adopted under ORC Chapter 3704; and
- OAC Rule 3745-19-03(A), which prohibits the open burning of such waste materials.

9. OAC Rule 3745-19-06(A) states that the Director of Ohio EPA may assess a violator not more than two hundred and fifty dollars (\$250) per day for each separate violation of the rules in this Chapter for open burning on residential property. The violations that occurred between May 5 and May 9, 2008 and May 15, 2009 are each being assessed this penalty.

10. Should Respondents fail to comply with these Orders, the Director of Ohio EPA may refer this matter to the Ohio Attorney General's Office where, under the authority of ORC § 3704.06, the Director may request that the Attorney General pursue legal action and seek civil penalties of up to \$25,000 per day of violation.

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. Within thirty (30) days after the effective date of these Orders, Respondents shall pay Ohio EPA the amount of five hundred dollars (\$500) in administrative penalties pursuant to OAC Rule 3745-19-06. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$500. The official check shall be submitted to Brenda Case, or her successor, with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

## **VI. TERMINATION**

Respondents' obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V of these Orders.

## **VII. 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 Respondents.

### VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondents for noncompliance with these Orders and/or for the violations described herein. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondents to perform additional activities pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein shall restrict the right of Respondents to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

### IX. EFFECTIVE DATE

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

#### IT IS SO ORDERED:

Ohio Environmental Protection Agency



Chris Korleski  
Director

Date

10/15/09





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

SEP 24 2009

**CERTIFIED MAIL**

Mr. Bill Ross, President/Owner  
Fairport Yachts, Ltd.  
1920 Fairport-Nursery Road  
Painesville, Ohio 44077

Re: Director's request for information regarding air contaminant emissions and the facility's classification

Dear Mr. Ross:

The purpose of this letter is to request information regarding Fairport Yachts, Ltd.'s actual and potential air pollutant emissions and other related information associated with its facility located at 1920 Fairport-Nursery Road, Painesville, Ohio. The information is being requested in accordance with the authority provided in ORC § 3704.03(I) and Ohio Administrative Code ("OAC") Rule 3745-15-03(A). ORC § 3704.03(I) gives the Director the authority to require the person responsible for an air contaminant source to maintain records and file periodic reports containing information such as the rate, duration, composition of air contaminant emissions and/or any other pertinent information the Director prescribes or determines necessary. Similarly, OAC Rule 3745-15-03(A) states that the Director may require the keeping and periodic submission of information on air contaminants and/or emissions from any or all potential sources for any reasonable purpose the Director determines necessary. OAC Rule 3745-15-03(A) further states that such information shall be recorded, compiled, and submitted in a manner and form prescribed by the Director. Failure to submit any or all of the information requested in accordance with ORC § 3704.03(I) and/or OAC Rule 3745-15-03(A) is a violation of ORC §§ 3704.05(D) and (G), respectively, and can subject the person(s) to civil penalties and other injunctive relief, including, but not limited to, the assessment of \$25,000 per day for each violation.

On numerous occasions, including February 6, 2002, June 19, 2003, November 18, 2004, April 5, 2005, May 31, 2005, June 14, 2005, November 3, 2005, May 15 and 16, 2007, Ohio EPA's Northeast District Office has asked for information regarding the emissions of air pollutants associated with the facility. Fairport Yachts, Ltd. has provided incomplete

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

responses to the requests; therefore, the Director is requiring, through the authority of ORC § 3704.03(l) and OAC Rule 3745-15-03(A), Fairport Yachts, Ltd. to submit the following information and documentation by October 15, 2009:

1. The facility-wide emission calculations for the actual and the potential to emit (PTE) of volatile organic compounds (VOC), single and combined hazardous air pollutants (HAPs) for each of the years 1998 to June 2009. HAP emission estimates should include, but not be limited to, the emission rates of styrene, methyl methacrylate (MMA), methylene chloride (dichloromethane), toluene, xylenes, n-hexanes, methyl isobutyl ketone (MIBK), and methyl chloroform (1,1,1-trichloroethane). The calculations must include HAP and VOC emissions resulting from the use of resins; gel coats; curing, hardening and cross link agents; solvents; adhesives; foam injection and surface coatings used in the manufacturing and cleanup processes as well as any other activity at the facility that might result in the release of any air pollution. A description and the individual calculations of each process and application used in open (i.e., gel coat, skin coat and additional layers) and closed (i.e., infusion molding, resin transfer molding) molding processes must encompass the facility-wide calculations (i.e., the summations of the individual and combined HAPs and VOC emission rates). Annual summations of the pollutants should be expressed in tons of emissions per rolling 12-month period and should consist of the previous individual 12-month summations. If monthly data is not available to estimate the "rolling 12-month periods," calendar years may be used with approval from Ohio EPA.
2. In addition to the summation of the rolling 12-month period emission estimates, please submit short-term emission rates expressed in pounds per hour and per day of individual and combination HAP and VOC. The shortest averaging periods as possible should be used on the short-term emission estimates; however, the averaging period should not exceed a monthly average. Any assumptions used to estimate the emission rates should be well explained and justified. If emission factors are used to estimate emissions, please note that emission factors are functions of the styrene/MMA content, process and type of application (i.e., hand layup, mechanical atomized and non-atomized; filament, gel coat, etc.); therefore, include justification and MSDS to support the use of the emission factors as well as records of the material used or purchased.
3. The process descriptions and emission estimates should indicate the date of installation of any air contaminant source and/or any changes made to a process as well as the effect the change and/or installation had on the emission rates of the air pollutants.

4. Please provide a detailed description and the reason for the 70,000 square feet expansion of the facility and the effect, if any, it had on the facility's PTE.
5. Please provide a detailed description of, and the reason for, the use of epoxy resin. Provide emissions calculations associated with use of the epoxies, catalyzers and/or any additives used in this process. Please provide all MSDS and justifications for the use of any emission factors or provide evidence, such as statements from the epoxy suppliers, that this process does not emit any air pollutant. Also, include any air pollutant emissions associated with the epoxy heat chamber. What effect, if any, did the use of epoxy have on the facility's annual production rate and/or the use of other resins?
6. If inherent physical limitations are used to limit the PTE of the facility for any particular year, please provide a detailed description of the limitation and the influence it has on the PTE.
7. If annual and/or short-term emission limitations contained in the facility's PTIs are used to show that the facility is a minor source, please provide complete and adequate records to demonstrate that the limitations were not exceeded and/or that the major source applicability thresholds on rolling 12-month periods were not exceeded.
8. Explain the liner process and any emissions associated with this process. After October 30, 2003, were all decks and liners produced in the closed mold infusion molding process? How were they produced prior to the use of the infusion molding process? Provide detailed calculations, in the manner outlined above in item number 1, of the emissions associated with the deck and liner production from 1998 to June 2009. Separate calculations should be included to represent the operation of the infusion molding process.
9. What date did the facility start the "lacquer" operations? Has this process been modified? If so, provide the date, a description and the emissions associated with the modification. Please include the emission calculations which should reflect both the actual and PTE for a rolling 12-month period.
10. What emissions factors were used to determine that the facility exceeded the 8 pounds per hour and/or the 40 pounds per day organic compound emission limitations contained in the facility's PTIs? Were different emission factors used for the different operations, applications, and/or styrene/VOC contents? Please

provide all available copies of the calculations for all dates that limitations were exceeded. Also, provide documentation and calculations if compliance could have been achieved with a longer averaging time than the averaging times expressed in the permit.

11. When were the traditional-atomizer and the "non-atomizer" guns installed? Provide a description of the usage of the chopper guns, the amounts and types of resins and additives generally used in the process. Provide detailed emission calculations, as outlined above in item number 1, associated with each gun. The emission estimates should be from the installation date of each chopper gun to June 2009 and should address any process and/or application that was/were influenced by the installation.
12. Please submit the annual amount, type and VOC and HAP contents of the resins, catalysts and solvents used or purchased since 1998 to June 2009 and indicate the amount (i.e., percentage) used in each process and application.
13. On August 22, 2003, January 30, 2004 and February 23, 2005 you submitted estimated emissions of styrene/OC/HAPs for the years 1998 through 2002, 2003, and 2004, respectively. And, in a June 11, 2008 letter, a purchasing summary of organic compounds and coatings, adhesives, paints, paint preps and varnishes which contain organic compounds, was submitted with an implied commitment for an upcoming potential to emit calculation. Please submit the detailed calculations used to derive these annual emission estimates. Did these estimates include emissions associated with cleanup, storage, the use of tooling resin and gel coat, adhesive and coating operations, etc.? Provide separate calculations for each pollutant (i.e., single and combined HAPs, VOC), each process and each application. If an improper emissions factor or assumption was used in these calculations, please provide a "corrected" estimate as well as the original calculation.
14. On what date was the resin transfer mold (RTM) installed? Were the emissions associated with close molding included in the annual emission calculations? If so, what emission factors were used? In what process is the RTM used?

Fairport Yachts, Ltd. can use the options contained in 40 CFR Section 63.5686 to demonstrate that the facility is a minor source. 40 CFR 63.5686 provides two options that can be used to demonstrate that the facility is not a major source. One option is an emission option where you demonstrate that your facility does not emit or have the potential to emit, considering federal enforceable limitations, 10 tons per year or more of a

single HAP or 25 tons or more of a combination of HAPs (this is similar to the method outlined above in the requested information). The demonstration must include the facility's PTE of emissions from the boat manufacturing facility and all other sources that are collocated and under common ownership or control of the boat manufacturing facility.

40 CFR Section 63.5686 also provides a material consumption option that fiberglass boat manufacturers may use to demonstrate they are minor sources if their facilities meet one of the following and maintain the required records:

1. If the facility is primarily a fiberglass boat manufacturing facility, it can demonstrate that it uses less than 50 tons per rolling 12-month period of all combined polyester and vinyl ester based resin and gel coats (including tooling and production resins and gel coats, and clear gel coats) and that 90 percent of all HAP emissions (including all other source categories) originate from the fiberglass boat manufacturing materials; or
2. If the facility is a fiberglass boat manufacturing facility, it can demonstrate that the boat manufacturing materials consumed per rolling 12-month period contained a total of less than 5 tons of any single HAP or less than 12.5 tons of all combined HAPs, and that at least 90 percent of total HAP emissions at the facility originate from the boat manufacturing materials.

If one of the material options outlined in 40 CFR Section 63.5686 is selected to demonstrate that the facility is not a major source under 40 CFR, Part 63, Subpart VVVV, the facility must keep records that demonstrate the 90 percent criterion is met.

The options contained in 40 CFR Section 63.5686 may also be selected to demonstrate that the facility is a minor source for the applicability of the Title V operating permit program, provided the emission calculations and supporting records include the years from 1998 to the present and that the emissions of the criteria pollutants are also addressed. If one of the material consumption options is selected, the Director may request additional information and documentation in lieu of the information requested above.

The requested information should be sent to the following offices:

Ohio EPA Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087-1969  
Attention: Nancy Meli

Mr. Bill Ross, Owner  
Fairport Yachts, Ltd.  
Page 6 of 6

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
50 West Town Street, Suite 700  
Columbus, Ohio 43216-1049  
Attention: Patty Porter

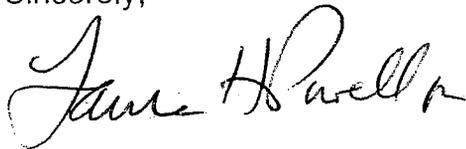
If you fail to provide the requested documents within the time frame requested, Ohio EPA will consider alternative enforcement options, including the referral of the violations to the Ohio Attorney General's Office for legal action.

The submission of the requested information does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in ORC Chapter 3704. The Ohio EPA will decide whether to pursue penalties regarding violations at a later date.

If you have any questions concerning this letter, please contact Nancy Meli of Ohio EPA's Northeast District Office at (330) 963-1239 or Patty Porter of the Ohio EPA, Division of Air Pollution Control at (614) 644-3695.

Your prompt attention to this matter will be appreciated.

Sincerely,



Chris Korleski  
Director

xc: Jim Orlemann, DAPC  
Tom Kalman, DAPC  
Patty Porter, DAPC  
Marcus Glasgow, Legal Office  
Nancy Meli/Tony Becker/Keith Riley, NEDO

CK:PP:pp





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

OCT 16 2009

**CERTIFIED MAIL**

Mr. Michael E. Groh  
Safety, Health, Environmental and Quality Manager  
Emery Oleochemicals LCC  
4900 Este Avenue  
Cincinnati, Ohio 45232

**Re: Proposed Director's Final Findings and Orders for air pollution control law and rule violations**

Dear Mr. Groh:

My staff has informed me of violations of the organic compound and particulate emission limitations specified in the terms and conditions of the permit to install and Title V permit for the Emery Oleochemicals, LCC (formally Cognis Oleochemicals, LLC) facility located at 4900 Este Avenue, in Cincinnati (Hamilton County), Ohio. I have also been informed that Emery has corrected the violations by installing two regenerative thermal oxidizers to control organic compound emissions from the ozonolysis processes (emissions units P010 and P017) and by performing various corrective measures for the boiler # 2 baghouse.

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 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. Because this letter and the attached documents summarize a proposed settlement, I consider them inadmissible for any purpose in any enforcement action the State may take in the event that settlement cannot be finalized.

Please note that the proposed Findings and Orders include a voluntary provision for a portion of the total civil penalty amount to go toward the funding of a supplemental environmentally beneficial project. The 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]). Information concerning the school bus retrofit program is provided in an enclosed document.

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

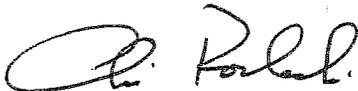
Mr. Michael E. Groh  
Emery Oleochemicals LLC  
Page 2 of 2

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 settlement, please contact Donald L. Vanterpool, Ohio EPA Staff Attorney, at (614) 644-3037. If he does not hear from Emery 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.

A copy of Ohio EPA's guidance document on the administrative enforcement process is enclosed for your information and to facilitate your review of the attached Findings and Orders and your understanding of the Division of Air Pollution Control's administrative enforcement process.

I hope Emery 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  
Patty Porter, DAPC  
Donald L. Vanterpool, Legal Office  
Kerri Castlen/Tom Wittekind, HCDES  
Cognis Corporation, Statutory Agent  
Ct Cooperation System, Statutory Agent

enclosures

CK:PP:pp

# **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<sub>x</sub>) 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**

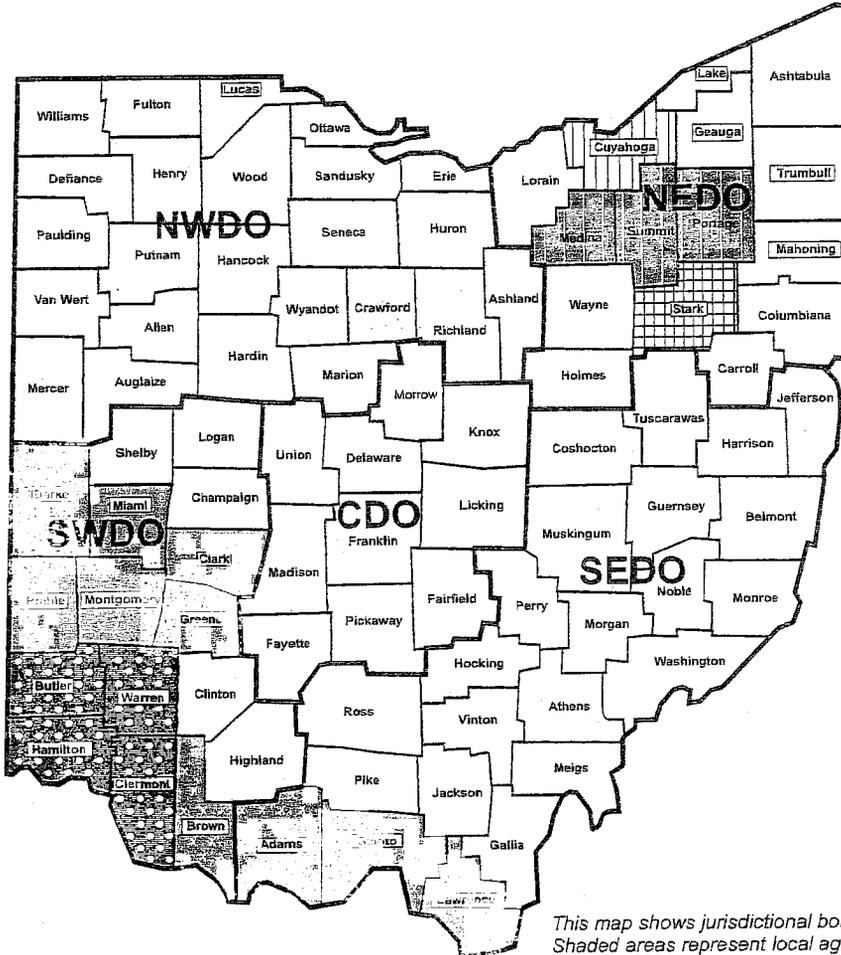
Please be aware that Ohio EPA may issue a news release to the media to inform the community about the settlement of this case, after all parties have signed it. As a public agency whose primary mission is to promote compliance with environmental laws, we believe it is important to inform citizens about 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/doiaa.html](http://www.epa.state.oh.us/dapc/general/doiaa.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

 **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

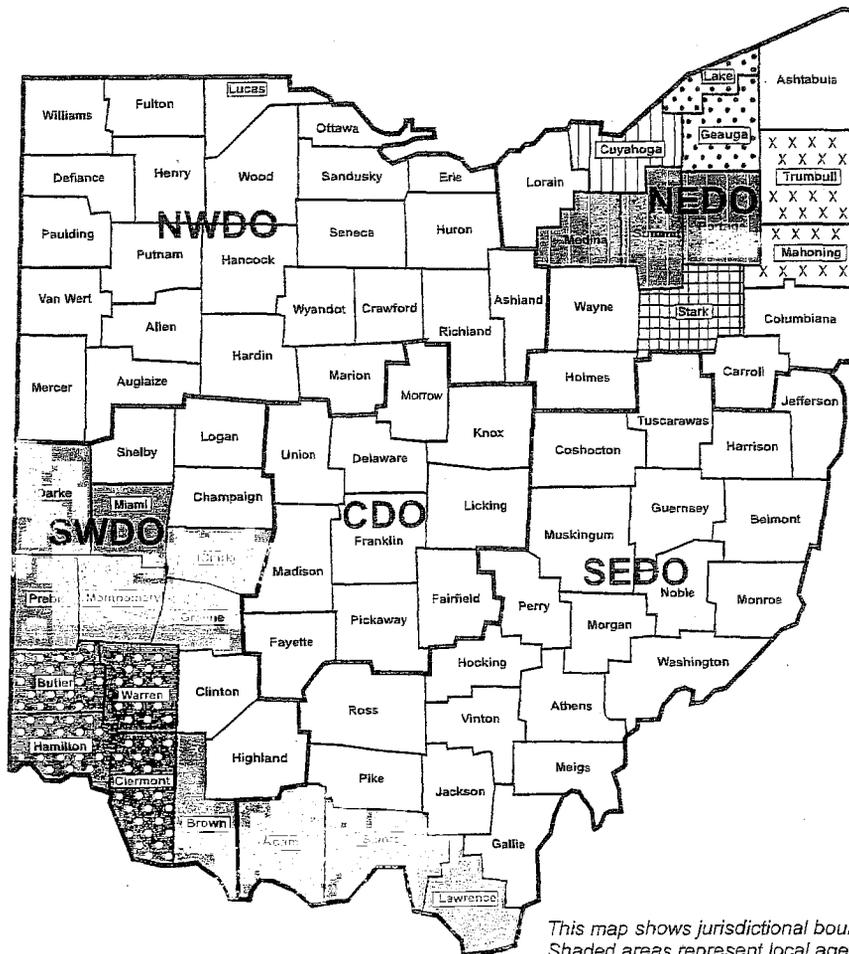
 **John Paul, Administrator**  
Regional Air Pollution Control Agency  
Public Health Dayton and Montgomery Cnty.  
117 South Main St.  
Dayton, Ohio 45422-1280  
(937) 225-4435 FAX (937) 225-3486  
e-mail: paulja@rapca.org

 **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](http://www.epa.state.oh.us/dapc/general/dolaa.html)



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2195 Front St.  
Logan, OH 43138  
(740) 385-8501 FAX (740) 385-6490  
e-mail: bruce.weinberg@epa.state.oh.us

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05 Southwest District Office  
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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:

Emery Oleochemicals LLC	:	<u>Director's Final Findings</u>
4900 Este Avenue	:	<u>and Orders</u>
Cincinnati, Ohio 45232-1419	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Emery Oleochemicals LLC ("Respondent"), previously Cognis Oleochemicals, LLC, 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 OAC Chapter 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings of fact:

1. Respondent owns and operates a chemical manufacturing plant located at 4900 Este Avenue, in Cincinnati (Hamilton County), Ohio, that is defined as a "facility" in OAC Rule 3745-31-01(OO). In November 2008 through a name change only sale the former Cognis Corporation (Cognis) finalized sale of its interest. The name change to Emery Oleochemicals LLC became effective May 15, 2009. The facility is classified as a "major source" for Title V and the Prevention of Significant Deterioration/New Source Review ("PSD/NSR") regulations in Ohio Administrative Code ("OAC") Chapters 3745-77 and 3745-31, respectively. At this facility, azelaic and pelargonic acids are produced in two similar, but separate, processes referred to as ozonolysis process II (building 60) and ozonolysis III (building 68). The ozonolysis processes consist of ozone generators,

reactors, running tanks, stills, extractors, and vacuum systems, and are collectively identified by Ohio EPA as emissions units P010 and P017 for building 60 and 68, respectively. Each emissions unit previously employed a packed tower scrubber and a catalytic oxidizer in series for the control of organic compound emission. Currently, the organic compound emissions are being controlled by regenerative thermal oxidizers ("RTOs"). Respondent also operates a 38.2 million Btu per hour ("MMBtu/hr") coal/fuel oil-fired boiler, whose particulate emissions are controlled with a baghouse, which is identified by Ohio EPA as emissions unit B028.

2. The emissions units identified in Finding 1 emit, in part, volatile organic compounds ("VOCs") and hazardous air pollutants ("HAPs"), as defined in OAC Rules 3745-21-01(B)(14) and 3745-77-01(V), respectively, and/or particulate emissions ("PE"), particulate matter ("PM"), and particulate matter with an aerodynamic diameter of 10 microns or less ("PM<sub>10</sub>"), which are defined as "air pollutants" or "air contaminants" in OAC Rule 3745-15-01(C). Additionally, these emissions units are "air contaminant sources" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W).

3. Unless otherwise exempt from the rule, OAC Rule 3745-21-13 requires, in part, any group 1 reactor or distillation unit in a synthetic organic chemical manufacturing industry ("SOCMI") chemical process unit, located in Hamilton County, to reduce VOC emissions vented to a control device by at least 98 percent or emit VOC at a concentration rate less than twenty parts per million by volume ("ppm<sub>v</sub>"). Existing group 1 reactors or distillation units process vents that were controlled by combustion control devices prior to May 27, 2005, did not have to comply with this limitation provided the existing combustion control devices reduced VOC emissions by at least 90 percent and were not capable of reliably reducing VOC emissions to meet the more stringent limitation (i.e., 98 percent). Existing reactors and distillation units located in Hamilton County were required to comply with the applicable VOC limitation by May 27, 2006 and to demonstrate compliance 90 days thereafter. Emissions units P010 and P017 contain reactors and distillation units defined as group 1 and are subject to all the applicable requirements specified in OAC Rule 3745-21-13. OAC Rule 3745-21-13 was adopted under the authority of ORC Chapter 3704.

4. OAC Rule 3745-31-05(C) states, in part, that the Director of Ohio EPA may impose special terms and conditions in a PTI as are appropriate or necessary to ensure compliance with applicable laws and to ensure adequate protection of the environment.

5. OAC Rule 3745-77-02(B) states, in part, that major sources are subject to the permitting requirements of OAC Chapter 3745-77 (i.e., Title V).

6. OAC Rule 3745-77-07(A)(1) requires, in part, that a Title V permit include emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of issuance. OAC Rule 3745-77-07(A)(3) requires, in part, that a Title V permit contain emission monitoring and analysis procedures or test methods sufficient to yield reliable

representative data to determine the source's compliance with the permit and applicable emission limitations.

7. ORC § 3704.05(C) prohibits any person from violating any terms or conditions of any permit issued by the Director of Ohio EPA.

8. ORC § 3704.05(G) prohibits any person from violating any order, rule or determination of the Director of Ohio EPA issued, adopted, or made under the authority of ORC Chapter 3704.

9. ORC § 3704.05(J)(2) prohibits, in part, any person from violating any applicable requirement of a Title V permit or any permit condition, except for an emergency as defined in 40 CFR 70.6(g).

#### **Failure to comply with the requirements of OAC Rule 3745-21-13**

10. On May 10, 2006, Respondent requested the May 27, 2006, compliance deadline contained in OAC Rule 3745-21-13 be extended until September 30, 2007, for the applicable emissions units associated with the ozone oxidation processes. The extension was needed to determine applicability and to evaluate and identify the most effective compliance options. USEPA's Miscellaneous Organic National Emission Standards for Hazardous Air Pollutants ("MON") regulation promulgated on November 10, 2003 contained similar emission control requirements; however, the regulation did not require compliance until May 10, 2008 (i.e., allowing 4 1/2 years for sources to achieve compliance). Respondent stated that the emissions units associated with the ozone oxidation processes had control devices that meet the 90 percent control efficiency option specified in OAC Rule 3745-21-13 for existing combustion control devices; however, because the packed tower scrubbers are not combustion control devices, the existing control devices did not qualify for this control option.

11. On or around September 2007, Respondent shut down emissions units P010 and P017 to replace the existing catalytic incinerator and scrubber systems with new RTOs. On January 23 and 24, 2008, Respondent conducted stack tests for emissions units P010 and P017 which demonstrated compliance with OAC Rule 3745-21-13. Respondent failed to comply with the applicable requirements specified in OAC Rule 3745-21-13 within the required time frame, in violation of ORC § 3704.05 (G). Respondent violated the requirements of OAC Rule 3745-21-13 from May 27, 2006 (the rule compliance deadline) until January 24, 2008 when compliance was finally demonstrated.

#### **Failure to comply with PTI and Title V Permit OC emission limitations**

12. From January 23, 2002 to December 21, 2006, Respondent conducted several stack tests that demonstrated that emissions units P010 and P017 were not complying with the OC emission limitations contained in PTI # 14-04576 and the Title V

permit. Respondent made modifications to the control devices to try to bring the emissions units into compliance with the OC emission limitations and agreed to conduct quarterly compliance testing until the installation of the new incinerators scheduled for the third quarter of 2007.

13. On May 8, 2007, Ohio EPA issued revisions to Respondent's Title V operating permit that required emissions units P010 and P017 to operate the primary and secondary control devices in series. Additionally, the permit limited the short term OC emissions to 2.59 and 2.54 lbs/hr for emissions units P010 and P017, respectively.

14. On June 5 and 6, 2007, Respondent conducted quarterly compliance tests for emissions units P010 and P017. The test results showed that emissions unit P010 was in compliance. However, Respondent failed to demonstrate that emissions unit P017 was in compliance with the OC emission limitation contained in PTI # 14-04579 and Respondent's Title V operating permit, in violation ORC § 3704.05(C) and J(2) (specific measured OC values are identified in the following table). On August 7, 2007, Hamilton County Department of Environmental Services ("HCDES"), Ohio EPA's contractual representative in Hamilton County, sent Respondent a notice of violation ("NOV") for the failed stack test.

<b>Results of Compliance Demonstrations</b>				
Date	Emissions unit	Measured OC Lb/Hr.	Allowable OC Lb/Hr.	Passed/Failed
June 5, 2007	P017	1.48	2.54	Passed
June 6, 2007	P010	6.08	2.59	Failed
Sept. 6, 2007	P017	2.93	2.54	Failed
Sept. 7, 2007	P010	2.61	2.59	Failed
Jan. 23, 2008 <sup>#</sup>	P017	0.102	2.54	Passed
Jan. 24, 2008 <sup>#</sup>	P010	0.062	2.59	Passed

# Compliance demonstration with the emissions generated by emissions units P010 and P017 being controlled by the new RTOs.

15. On September 6 and 7, 2007, Respondent conducted another compliance test for emissions units P010 and P017. The test results indicated that both emissions units were not complying with the OC emission limitations contained in PTI # 14-04579 and Respondent's Title V operating permit, in violation ORC § 3704.05(C) and J(2) (specific measured OC values are contained in Finding 14's table).

16. In a letter dated October 4, 2007, Respondent informed HCDES of the

September 2007 test results and that it shut down emissions units P010 and P017 to install the new RTOs. On February 22, 2008, Respondent notified HCDES that emissions units P010 and P017 recommenced operation on November 12, 2007.

17. On December 28, 2007, HCDES sent a NOV to Respondent for the failed performance tests. The NOV also stated that the installation of the RTOs was acceptable as a compliance plan.

18. On January 23 and 24, 2008, Respondent performed stack tests for emissions units P010 and P017. The measured emission rates demonstrated that emissions units P010 and P017 were complying with the OC emission limitations specified in the Title V permit and PTI # 14-04576 and all other applicable requirements.

19. Respondent's failure to comply with the OC emission limitations specified in PTI # 14-04576 and the Title V operating permit for emissions units P010 and P017 were in violation of ORC § 3704.05(C) and (J)(2). Emissions units P010 and P017 violated the OC emission limitations from September 6, 2007 and June 6, 2007 (the date of the first failed compliance tests after the compliance demonstration required by the December 29, 2006, Director's Final Findings and Orders), respectively, until January 23 and 24, 2008 (the date compliance was demonstrated), respectively, excluding the time the emissions units did not operate for the installation of the RTOs. Emissions units P010 and P017 also violated OAC Rule 3745-21-13 from May 27, 2006 until January 23 and 24, 2008.

#### **Failure to comply with PTI and Title V Permit PE limitation**

20. On January 20, 1981, Ohio EPA issued PTI # 14-312 to Respondent authorizing the installation of emissions unit B028 (i.e., boiler # 2). The PTI limited emissions unit B028's PE to 0.06 pound per million Btu ("lb/MM Btu") of actual heat input. Respondent's Title V permit, issued on October 22, 2007, required that emission testing be conducted on emissions unit B028 to demonstrate compliance with the 0.06 lb/MMBtu PE limitation.

21. On May 14, 2008, Respondent conducted the compliance test for emissions unit B028. The compliance test measured the average PE rate at 0.76 lb/MMBtu, an exceedance of the 0.06 lb/MM Btu limitation specified in Respondent's Title V permit and PTI. This exceedance was a violation of ORC § 3704.05(C) and (J)(2). On June 30, 2008, HCDES sent Respondent a NOV letter for the failure to comply with the terms and conditions of Respondent's Title V permit and PTI and requested Respondent submit a plan to bring emissions unit B028 into compliance ("compliance plan").

22. On July 17, 2008, Respondent replied to the June 30, 2008, NOV. The reply stated that on July 9, 2008, Respondent switched from using coal to number 4 fuel oil to lower the PE.

23. On July 11, 2008, Respondent retested emissions unit B028 while burning

fuel oil. The PE were measured at 0.09 lb/MM Btu demonstrating that the boiler was still operating out of compliance. On August 27, 2008, HCDES sent Respondent a NOV letter requesting the submittal of another compliance plan to bring the boiler into compliance.

24. On September 12, 2008, Respondent replied to the August 27, 2008, NOV.

25. On August 15, 2008, Respondent retested emissions unit B028. The results (i.e., 0.011 lb of PE/MM Btu) indicated that emissions unit B028 was in compliance with the PE limitation. Respondent failed to comply with the PE limitation specified in the Respondent's Title V permit and PTI, from May 14, 2008 (the date of the first failed stack test) until August 15, 2008 (the date compliance was demonstrated), excluding approximately one month while the boiler was shut down for repairs and maintenance, in violation of ORC § 3704.05(C) and (J)(2).

26. 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 the 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 two hundred forty-two thousand dollars (\$242,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for one hundred ninety-three thousand six hundred dollars (\$193,600). The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining forty-eight thousand four hundred dollars (\$48,400) of the civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$48,400 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 \$48,400. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$48,400 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, 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**

Except as otherwise provided in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Hamilton County Department of Environmental Services  
Air Quality Programs

250 William Howard Taft Road  
Cincinnati, Ohio 45219-2660  
Attention: Kerri Castlen

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: 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 the 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:**

Emery Oleochemicals LLC

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

**AIR CIVIL PENALTY WORKSHEET**  
**Emery Oleochemicals LLC**  
**(for settlement purposes only)**

<b>A. Benefit Component:</b> (enter from attached computer calculation)		<u>\$0</u>	No economic benefit is being assessed for the installation of emissions units P010 and P017 RTOs because it is believed that the installation is driven by the MON and the Ohio RACT rules. The economic benefit from the delayed installation of the previous control systems were addressed in the 2006 F&Os; therefore, they are not included.
		<u>\$0</u>	The economic benefit from the delayed replacement of emissions unit B028's fabric filter bags, etc. is estimated to be less than \$5,000 (i.e., negligible).
<b>B. Gravity Component:</b> 1. Actual or possible harm			
a. Amount above standard: i. OC above the standard for emissions unit P017.	<u>\$25,000</u>		Highest amount above standard is 139% for emissions unit P017 {calculated using 6.08 lbs/hr OC emission rate measured during the 6/6/07 stack test: [(6.08 - 2.54) lbs/hr divided by 2.54 lbs/hr] times 100%}.
ii. OC above the standard for emissions unit P010.	<u>\$5,000</u>		Highest amount above standard is 13% for emissions unit P010 {calculated using 2.93 lbs/hr OC emission rate measured during the 9/6/07 stack test: [(2.93 - 2.59) lbs/hr divided by 2.59 lbs/hr] times 100%}.
iii. PE above the standard for emissions unit B028.	<u>\$170,000</u>		1,166% above PE standard {calculated using 5/15/08 stack test data: [(0.76 -.06) lbs/MMBtu divided by 0.06 lb/MMBtu] times 100%}.
b. Toxicity of pollutant:	<u>\$15,000</u>		The violation of the OC emissions limitation involved emissions of 112(b)(1) pollutants.
c. Sensitivity of environment:	<u>\$22,000</u>		Non-attainment area for ozone and PM <sub>2.5</sub> (\$10,000 + \$12,000).
d. Length of time of violation: i. Noncompliance with OC emission limitation for emissions unit P010.	<u>\$12,000</u>		Failure to comply with PTI and Title V OC emission limitation requirements for emissions unit P010 for four months [from 9/6/07 (non-compliance stack test) to 01/23/08 (compliance stack test) excluding 1 month that emissions unit P010 was not operating (9/21/07 to 10/12/07)].
ii. Noncompliance with OC emission limitation for emissions units P017.	<u>\$12,000</u>		Failure to comply with PTI and Title V OC emission limitation requirements for emissions unit P017 for six months [from 06/6/07 (non-compliance stack test) to 01/24/08 (compliance stack test) excluding 2 months that emissions unit P017 was not operating (9/25/07 to 11/12/07)]. This also includes the 72 hours emissions unit P017 bypassed the RTO on January 1, 2008.
iii. Noncompliance with PE limitation for emissions unit B028.	<u>\$8,000</u>		2 months of violation; occurring from 5/14/08 (the date of the first failed compliance test) to 8/15/08 (the date compliance was demonstrated). The length of violation excludes the time (~ 1 month) the boiler did not operate during the non-compliance period.
2. Importance to regulatory scheme:	<u>\$0</u>		
3. Size of violator:	<u>\$269,000</u>		Net worth information not publicly available - net worth estimated to be \$179.74 million (20% of 2003 annual sales of \$898.7 million - Reference: Hoover's Online). Pursuant to CCA Stationary Source Civil Penalty dated 11/25/91, the size of violator was reduced to 50% of the preliminary deterrence amount.

<b>Total Gravity Component:</b>		<u>\$538,000</u>	
<b>Preliminary Deterrence Amount:</b> (sum of benefit and gravity components)		<u>\$538,000</u>	
<b>C. Flexibility-Adjustment Factor:</b>			
1. Degree of willfulness or negligence: (total gravity component times an augmentation percentage)	<u>\$0</u>		not applicable
2. Degree of cooperation: (total gravity component times any mitigation percentage)	<u>(\$161,400)</u>		30% mitigation of gravity component for Emery's (i.e., Cognis) cooperation in correcting the emission violations.
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 known at this time
5. Other unique factors: (total gravity component times any mitigation or augmentation percentage)	<u>(\$134,500)</u>		25% mitigation of gravity component for the small amount (in tons) of noncomplying excess emissions associated with emissions unit P010 and P017 and the relatively small amount from 3028 during the noncomplying periods.
All augmentation (+) and mitigation (-) amounts added: (if negative, cannot exceed total gravity component)		<u>(\$295,900)</u>	
<b>D. Administrative component</b>			
1. Installation of a source without obtaining permit-to-install	<u>\$0</u>		not applicable
2. Operation of a source without obtaining permit-to-operate	<u>\$0</u>		not applicable
<b>Total Administrative Component</b>		<u>\$0</u>	
<b>E. Initial Minimum Settlement Amount:</b> [preliminary deterrence amount + or - sum of flexibility adjustment factors plus administrative component (A+B+C+D)]		<u>\$242,100</u>	<u>rounded to \$242,000</u>





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

October 22, 2009

**CERTIFIED MAIL**

Mr. Donnie Loubiere  
Plant Manager  
Evonik Degussa Engineered Carbons Corporation  
11135 State Route 7  
Belpre, Ohio 45714

**Re:** Proposed Director's Final Findings and Orders for the violations of Ohio air pollution control requirements by Evonik Degussa Engineered Carbons Corporation at its facility in Belpre, Ohio

Dear Mr. Loubiere:

My staff has informed me of the violations of the Title V permit, the November 29, 2007 Permit to Install, OAC Rule 3745-15-06(B), and ORC § 3704.05(C), (G) and (J)(2) associated with the processing of fuel stock into carbon black. I understand that Evonik Degussa Engineered Carbons Corporation has corrected the violations.

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. Because this letter and the attached documents summarize a proposed settlement, I consider them 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 environmental projects. The first project involves diverting a portion of the total civil penalty amount toward performing a pollution prevention study of the facility to assess the feasibility of specific source emission reduction and environmentally sound recycling projects. The pollution prevention studies can lead not only to the reduction of pollution at its source, but also to substantial cost-savings for the facility. The second project involves diverting 20 percent of the total 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 project has the primary benefits of reducing children's

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

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).

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, Ohio EPA Staff Attorney, at (614) 644-3037. If Evonik Degussa Engineered Carbons Corporation does not reply to Ohio EPA within fourteen (14) days of the receipt of this letter, I will withdraw this offer to resolve the violations. Once the offer is withdrawn, Ohio EPA may seek alternative enforcement mechanisms including referral of the violations 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.state.oh.us/opp/guide/p2pbgn.html](http://www.epa.state.oh.us/opp/guide/p2pbgn.html). Information concerning the school bus project is provided in an enclosed document.

Enclosed is a copy of guidance on the administrative enforcement process, which you may find helpful in answering any questions on Ohio EPA's enforcement process.

I hope that Evonik Degussa Engineered Carbons 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  
Tan Tran, DAPC  
Marcus Glasgow, Legal Office  
Michael Carper/Bruce Weinberg, SEDO  
CT Corporation, Statutory Agent for Evonik Degussa Engineered Carbons Corporation

enclosures

CK:TT:tt

# 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<sub>x</sub>) 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>.

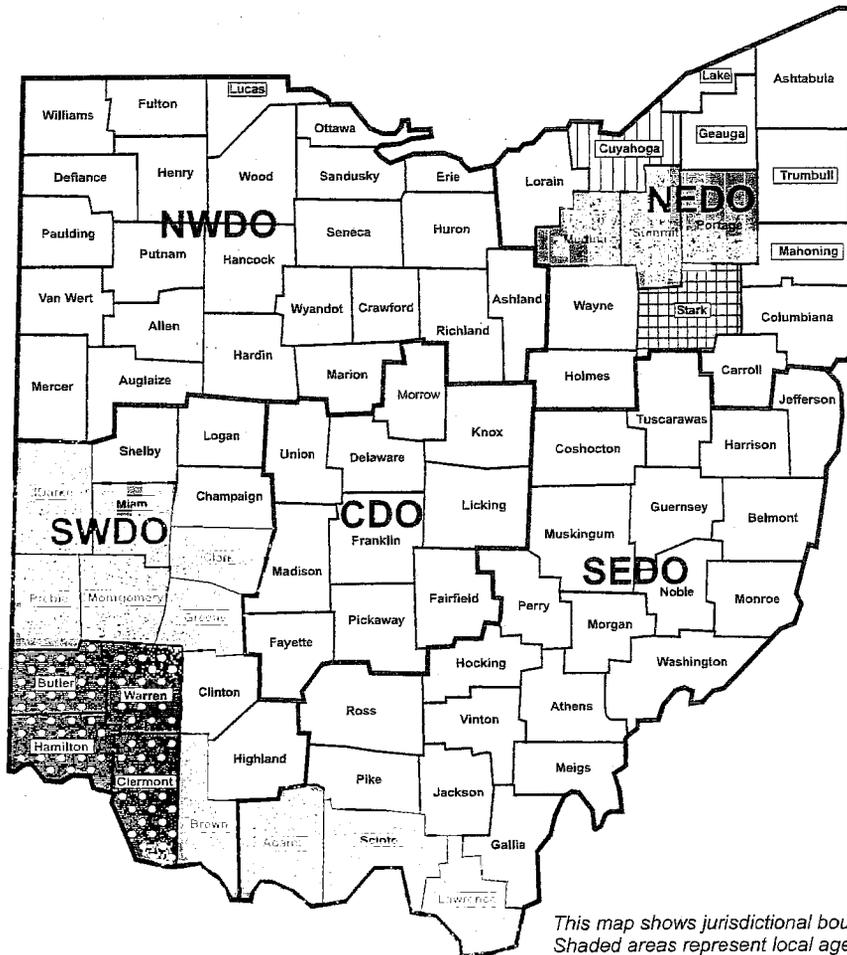
### **District Office and Local Air Agency Addresses and Phone Numbers**

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](http://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

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Evonik Degussa Engineered	:	<u>Director's Final Findings</u>
Carbons Corporation	:	<u>and Orders</u>
11135 State Route 7	:	
Belpre, Ohio 45714	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Evonik Degussa Engineered Carbons 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 regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA makes the following findings:

1. Respondent's facility processes fuel stock into carbon black. At this facility, among other equipment, Respondent owns and operates four carbon black production units 1 through 4 [emissions units ("EUs") P001, P002, P011, and P012]. The carbon black produced in units 1 and 2 is further processed in dryers (EUs P005 and P006, respectively). EUs P011 and P012 do not have any dryers associated with them. There are also several supporting EUs used to store raw material and collect, transfer, and load the carbon black material into railcars and tanker trucks. This property is located at 11135 State Route 7 in Belpre (Washington County), Ohio.

2. Each of the above-mentioned EUs in Finding 1 is an "air contaminant source" as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (X). Emissions from EUs P001 and P002 are vented to a common flare for oxidation. Emissions from EUs P011 and P012 are vented to a common thermal incinerator for oxidation.

3. ORC § 3704.05(C) states, in part, that no person who is a holder of a permit issued under ORC § 3704.03(F) or (G) shall violate any of its terms and conditions. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. ORC § 3704.05(J)(2) prohibits the violation of any term and condition of a Title V permit.

4. On December 31, 2002, a Title V permit was issued to Respondent for its facility. The Title V permit established emission limitations and monitoring, recordkeeping and reporting requirements for all EUs at the facility. The Title V permit expired on December 31, 2007; however, pursuant to OAC Rule 3745-77-08(E)(1), the requirements of the expired Title V permit remain in effect until the Director takes final action on the timely filed renewal permit application submitted by Respondent.

5. On November 29, 2007, a final permit to install ("PTI") modification was issued to Respondent for EUs P001, P002, P011 and P012. This PTI modification was issued to increase the sulfur content of the feedstock oil from 3 percent to 4 percent. This PTI modification also established the combined allowable emission rates for nitrogen oxides ("NOx") and volatile organic compounds ("VOC") for EUs P001 and P002 at 43.7 pounds per hour ("lbs/hr") and 9.4 lbs/hr, respectively. Further, this PTI modification established the combined allowable emission rates for NOx and VOC for EUs P011 and P012 at 37.0 lbs/hr and 10 lbs/hr, respectively.

#### **Failure to Maintain the Combustion Temperature Within Required Range**

6. Part III.A.II.3 of the special terms and conditions of Respondent's Title V permit states that the average combustion temperature within the thermal incinerator, for any 3-hour block of time when an emissions unit is in operation, shall not be more than 50 degrees Fahrenheit below the average temperature during the most recent emission test that demonstrated EUs P011 and P012 were in compliance (average test temperature was 1,632 degrees Fahrenheit on January 10, 2008).

7. There were 906 hours of operation in the first quarter of 2008, 1,715 hours of operation in the second quarter of 2008, 1,608 hours of operation in the third quarter of 2008, and 537 hours of operation in the fourth quarter of 2008 during which Respondent failed to maintain the average combustion temperature inside the thermal incinerator within the required range for EUs P011 and P012, in violation of the Title V permit and ORC § 3704.05(C) and (J)(2).

8. On March 17, 2009, Respondent performed a follow-up emission test for EUs P011 and P012. A lower average test temperature of 1,461 degrees Fahrenheit was established during that test.

#### **Failure to Comply with the Limits for NOx and VOC**

9. The results of stack test performed by Respondent on January 10, 2008 revealed that the tested NOx and VOC emissions rates for EUs P001 and P002 were 52.8 lbs/hr and 11.4 lbs/hr, respectively. Based on these results, SEDO concluded that Respondent was not in compliance with the combined allowable NOx and VOC limits in its PTI modification, which are 43.7 lbs/hr and 9.4 lbs/hr. Respondent retested on May 7, 2008 and complied with these limits. The tested emissions rates for NOx and VOC were 5.3 lbs/hr and 9.2 lbs/hr, respectively. Therefore, from January 10, 2008 through May 7, 2008, Respondent was in violation of the terms and conditions of its permit to install modification and ORC § 3704.05(C).

#### **Failure to Report Malfunctions**

10. Part I.A.2 of the general terms and conditions of Respondent's Title V permit requires Respondent to immediately notify Ohio EPA of a malfunction pursuant to OAC Rule 3745-15-06(B).

11. OAC Rule 3745-15-06(B)(1) requires that in the event that any emission source or air pollution control equipment located at a facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the facility shall immediately notify Ohio EPA of such failure or breakdown and provide the Agency with the information required in OAC Rule 3745-15-06(B)(1).

12. Respondent failed to verbally notify Ohio EPA of five malfunctions that occurred on October 16, 2008, October 20, 2008, October 31, 2008, and November 5, 2008, concerning EUs F003 and/or F004, in violation of the terms and conditions of the Title V permit, OAC Rule 3745-15-06(B)(1), and ORC § 3704.05(C), (G) and (J)(2).

13. SEDO issued notices of violation to Respondent addressing the violations described in the above Findings. The notices were dated March 17, 2008, November 20, 2008, and March 4, 2009.

14. 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. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of fifty-eight thousand dollars (\$58,000) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of thirty-six thousand and four hundred dollars (\$36,400) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$36,400. 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

A copy of the check 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

2. In lieu of paying the remaining twenty-one thousand and six hundred dollars (\$21,600) of the civil penalty to Ohio EPA, Respondent shall fund the supplemental environmentally beneficial projects ("SEPs") identified in Orders 3 and 4. Of the \$21,600, \$11,600 shall be used to fund the project in Order 3, and \$10,000 shall be used to fund the project in Order 4. In the event Respondent defaults or otherwise fails to complete any of the projects as specified in Orders 3 and 4, the \$11,600 for the project in Order 3 and/or the \$10,000 for the project in Order 4, 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.

3. Respondent shall fund a SEP by making a contribution in the amount of eleven thousand and six hundred dollars (\$11,600) 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 \$11,600. 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.

4. 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 \$10,000 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.

5. Within thirty (30) days of the completion and approval by Ohio EPA of the project identified in Order 4, 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 \$10,000, Respondent shall submit, along with the final report identified in Order 4 and in the manner described in Order 1, an official check to Ohio EPA for the difference in cost between \$10,000 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 purposes of these Orders, a responsible official is as defined in OAC Rule 3745-77-01(GG)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

## **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:

Ohio EPA, Southeast District Office  
2195 Front Street  
Logan, Ohio 43138  
Attention: Michael Carper

and to:

Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: 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 the 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 the 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 said 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:**

Evonik Degussa Engineered Carbons Corporation

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or Typed Name

\_\_\_\_\_  
Title

**Air Civil Penalty Worksheet**  
**Evonik Degussa Engineered Carbons**  
**11135 State Route 7**  
**Belpre, Ohio**  
**(for settlement purposes only)**

A. Benefit Component:

\$ 0

Any cost savings due to the violations are unknown, but are assumed to be negligible (i.e., less than \$5,000).

B. Gravity Component:

1. Actual or possible harm:

\$ 5,000

[(52.8 - 43.7) lbs/hr / (43.7 lbs/hr)] X 100% = 20.8% (for NOx from EUs P001 and P002).

a. Amount above standard:  
(max. actual emissions - allowable emissions) / allow. emissions X 100%

\$ 5,000

[(11.4 - 9.4) lbs/hr / (9.4 lbs/hr)] X 100% = 21.3% (for VOC from EUs P001 and P002).

Not applicable.

b. Toxicity of pollutant:

\$ 0

c. Sensitivity of environment:

\$ 5,000

Washington County was an attainment area for ozone at the time of violations.

d. Length of time of violation:

\$ 5,000

Approximately 4 months for failure to comply with the NOx and VOC limits for EUs P001 and P002 (between 01/10/08 and 05/07/08).

\$ 8,000

Approximately 3 ½ months (combined 4,766 hours = 199 days between 01/01/08 and 12/31/08) for failure to comply with the required combustion temperature for EUs P011 and P012.

\$ 5,000

Approximately 4 days (5 malfunctions) between October 16, 2008 and November 5, 2008 for failure to verbally notify Ohio EPA of the malfunctions for EUs F003 and/or F004.

2. Importance to regulatory scheme:	<u>\$ 15,000</u>	Failure to comply with the required combustion temperature for EUs P011 and P012.
	<u>\$ 15,000</u>	Failure to verbally notify Ohio EPA of the malfunctions for EUs F003 and/or F004.
3. Size of violator:	<u>\$ 10,000</u>	Net worth of Respondent is estimated at between 1 to 5 million dollars. (Based on 20% of Respondent's 2008 net annual sales obtained from Reference USA.)
Total gravity component:	<u>\$ 73,000</u>	
Preliminary Deterrence Amount:	<u>\$ 73,000</u>	
(sum of benefit and gravity components)		
 C. Flexibility-Adjustment Factors:		
1. Degree of willfulness or negligence:	<u>-0-</u>	None requiring augmentation of penalty.
total gravity component x any augmentation percentage		
2. Degree of cooperation:	<u>-0-</u>	None requiring mitigation of penalty.
total gravity component x any mitigation percentage		
3. History of noncompliance:	<u>-0-</u>	None requiring augmentation of penalty.
total gravity component x any augmentation percentage		
4. Ability to pay:	<u>-0-</u>	Information regarding Respondent's ability to pay is not available.
any mitigation amount		
5. Other unique factors:	<u>(\$14,950)</u>	65% mitigation of penalties (\$8,000 + \$15,000) for violations of combustion temperature restriction for thermal oxidizer for EUs P011 and P012 due
total gravity component x any mitigation or augmentation percentage		

to subsequent  
complying VOC emission  
test at a lower  
temperature.

Sum of Flexibility-  
Adjustment Factors:

(\$14,950)

(Mitigation amount cannot  
exceed total gravity  
component)

-0-

Not applicable.

D. Administrative Penalties:

\$58,050

Round to \$58,000.

E. Initial Settlement Amount:

(Preliminary Deterrence Amount  
+ or - Sum of Flexibility  
Adjustment Factors +  
Administrative Penalties)