

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

TODCO Division Overhead Door Corp. :	<u>Director's Final</u>
1295 East Fairground Road :	<u>Findings and Orders</u>
Marion, Ohio 43302 :	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to TODCO Division Overhead Door 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's facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a corporation duly organized under the laws of the State of Ohio. The Respondent's facility contains two coating operations, emissions units K003 and K004, and two wood lines, emissions units P001 and P901, used in the manufacturing of overhead doors. Each coating operation consists of a spray booth with a dry filtration system, and each wood line consists of saws, drills and routing equipment. The manufacturing facility is located at 1295 East Fairground Road, in Marion, Ohio (facility identification #0351010147).

2. An inspection of Respondent's facility was conducted by Ohio EPA, Northwest District Office ("NWDO") personnel on August 26, 1997. A Notice of Violation

("NOV"), dated September 15, 1997, was issued by the NWDO outlining the following violations:

- a) Respondent failed to submit fee emission reports for the calendar years 1995 and 1996, in violation of OAC rule 3745-78-02(A) and ORC § 3704.05(G). The fee emission reports for 1995 and 1996 were submitted by Respondent on October 28, 1997 and October 10, 1997, respectively.
- b) Respondent failed to submit a Permit to Install ("PTI") application for modifications to R003 (now K003) and R004 (now K004), in violation of OAC rule 3745-31-02 and ORC § 3704.05(G). The PTI modification application was submitted by Respondent on October 3, 1997.

3. An inspection of Respondent's facility was conducted by NWDO personnel on November 15, 2000. A NOV, dated November 29, 2000, was issued by the NWDO outlining the violations listed below. The NOV requested Respondent to submit a written response by December 30, 2000.

- a) Respondent failed to produce any records for emissions units K003 and K004 during the inspection, nor has Respondent submitted the quarterly reports required by Respondent's PTI #03-10991. These are violations of ORC § 3704.05(C) and Respondent's PTI #03-10991. The quarterly reports were submitted in a December 29, 2000 response from Respondent.
- b) Respondent failed to install the proper equipment for emissions unit P901 to monitor the pressure drop across the baghouse that is required to be monitored on a weekly basis by Respondent's PTI #03-13263. As a result, record keeping and reporting requirements have not been met. These are violations of ORC § 3704.05(C) and Respondent's PTI #03-13263. The December 29, 2000 response from Respondent stated the equipment had been installed and it would begin the required monitoring, record keeping and reporting.

4. An inspection of Respondent's facility was conducted by NWDO personnel on December 17, 2001. A corrected NOV, dated December 20, 2001, was issued by NWDO outlining the violations listed below. The NOV requested Respondent to submit a written response by January 20, 2002.

- a) Respondent failed to submit quarterly pressure drop deviation reports on time in violation of ORC § 3704.05(C) and (J)(2). For emissions unit P001, a report was not submitted on time for the 3rd quarter of 2001 as required by Respondent's Title V permit. Respondent was in violation from the report due date until the report was received on January 28, 2002. For emissions unit P901, reports were not submitted on time for the 1st and 2nd quarters of 2001

as required by Respondent's PTI #03-13263, and a report was not submitted on time for the 3rd quarter of 2001 as required by Respondent's PTI #03-13263 and Title V permit. Respondent submitted these reports on January 28, 2002.

- b) Respondent failed to maintain daily records of visible emission observations as required by the Title V permit, in violation of ORC § 3704.05(C) and (J)(2). For emissions unit P901, daily records were not maintained from September 26, 2001 until January 2, 2002.
- c) Respondent failed to maintain monthly coating and cleanup material records for emissions units K003 and K004, as required by PTI #03-10991 and the Title V permit, in violation of ORC § 3704.05(C) and (J)(2). This violation occurred from April 8, 1998, when record maintenance should have begun, until January 2, 2002, when record maintenance began.
- d) Respondent failed to maintain annual coating and cleanup material records for emissions units K003 and K004, as required by the Title V permit, in violation of ORC § 3704.05(C) and (J)(2). This violation occurred from September 26, 2001, when record maintenance should have begun, until January 2, 2002, when record maintenance began.
- e) Respondent failed to submit quarterly deviation reports on time for the year 2001 for emissions units K003 and K004, as required by PTI #03-10991, in violation of ORC § 3704.05(C). Respondent finally submitted the reports on January 28, 2002.

5. A letter from NWDO dated December 28, 2001 was sent to Respondent indicating the applicability of OAC rule 3745-21-07(G)(2), i.e., the organic compound ("OC") emission limitation of 40 pounds per day. Respondent's PTI#03-10991 and Title V permit referenced OAC rule 3745-21-09(U) as applicable for emissions units K003 and K004, and allow emissions of up to 35 pounds of volatile organic compound ("VOC") emissions per hour. OAC rule 3745-21-09(U) refers to the surface coating of miscellaneous metal parts and materials. Respondent also coats wood and fiberglass; therefore, OAC rule 3745-21-07(G)(2) is the applicable rule for the materials. Additional information was requested of Respondent by January 15, 2002 in order to determine if Respondent is in violation of OAC rule 3745-21-07(G)(2).

6. A letter dated January 14, 2001, from Environmental Resources Management ("ERM"), was sent on behalf of Respondent to NWDO. This letter addressed the December 28, 2001 letter from NWDO and provided part of the information requested.

7. Two extensions were requested by Respondent, and granted by NWDO, for the response to the NOV. A letter, dated January 28, 2002, from ERM on behalf of

Respondent, was sent to NWDO to address issues in the NOV. Several reports were also submitted with this letter and with correspondence submitted on January 30, 2002. These reports included non-compliant coating usage for January 2002.

8. A NOV, dated February 5, 2002, was sent to Respondent for using non-compliant coatings during January 2002. Respondent used coatings in emissions unit K004 that did not comply with the VOC restriction of 3.5 pounds of VOC per gallon of coating, excluding water and exempt solvents, in violation of the terms and conditions of PTI #03-10991, OAC rule 3745-21-09(U), the Title V permit, and ORC § 3704.06(A), (C) and (G).

9. A letter, dated February 8, 2002, was sent to Respondent by NWDO addressing Respondent's January 25, 2002 letter regarding the applicability of OAC rule 3745-21-07(G)(2). Records supplied by Respondent indicated that more than 40 pounds per day of OC emissions have been emitted in the past. Therefore, Respondent has violated OAC rule 3745-21-07(G)(2) and ORC § 3704.05(A) and (G) for emissions unit K004. Respondent was informed that an application for modification of PTI #03-10991 was required before it could become compliant with OAC rule 3745-21-07(G)(2). The application was requested by March 8, 2002. Respondent was also informed that its Title V permit would require a modification.

10. A letter, dated February 20, 2002, was sent to NWDO by Respondent addressing the February 5, 2002 NOV. The letter provided a compliance plan including the submittal of a PTI modification application by March 8, 2002.

11. A letter, dated March 5, 2002, was sent from Respondent notifying NWDO of the use of a non-compliant coating for January and February 2002 for emissions units K003 and K004, in violation of OAC rule 3745-21-09(U) and ORC § 3704.05(A) and (G). Records were not kept by Respondent prior to January 2, 2002; therefore, the violation likely has occurred since the start of emissions units K003 and K004.

12. A telephone conversation between Dine Comply, Inc. (now representing Respondent) and NWDO occurred on January 16, 2002 at which time an extension until March 22, 2002 for submittal of the PTI modification application was requested and granted.

13. As of April 11, 2002, the application for a PTI modification has not been submitted. Respondent reported that it is currently working with suppliers to resolve issues relevant to the PTI modification, and NWDO has granted Respondent additional time to complete the application. Furthermore, Respondent has been working with its paint suppliers to develop a compliant coating. This coating would be a non-photochemically reactive material containing no more than 3.5 pounds of VOC per gallon of coating, thereby bringing Respondent into compliance with OAC rule 3745-21-07(G)(2) and OAC rule 3745-21-09(U), respectively.

14. On April 25, 2002, it was reported to NWDO by Dine Comply, Inc. that, due to errors during testing of the new coating, which requires 250 hours, a new test would have to be performed.

15. A letter from Respondent, received by NWDO on May 6, 2002, indicated that if the current testing was successful, a PTI application would be submitted by July 15, 2002. The PTI application was not received.

16. Respondent submitted non-compliant coating usage reports, on time, for April, May and June 2002. The following table summarizes the non-compliant coating usage violations that have occurred since Respondent began record keeping, January 2, 2002, until the end of June 2002. These include violations of the Respondent's PTI, OAC rule 3745-21-09(U) and OAC rule 3745-21-07(G)(2), which also constitute violations of ORC § 3704.05(A), (C) and (G).

Date 2002	Unit	Violation of OAC rule 3745-21-09(U) and Respondent's PTI and Title V permit (3.5 lbs of VOC/gallon)	Violation of OAC rule 3745-21-07(G)(2) (40 lbs of OC/day)
Jan 11	K004	5.5	-
Jan 12	K004	5.1	-
Jan 15	K004	5.1	-
Jan 22	K004	5.1	-
Jan 30	K004	4.9	-
Feb 4	K004	5.1	-
Feb 12	K004	5.1	-
Feb 13	K004	-	40.25
Mar 4	K004	3.7	-
Mar 6	K004	5.1	-
Mar 8	K004	3.7	-
Mar 21	K004	4.9	-
Mar 27	K004	4.9	-
Apr 3	K004	5.1	-
Apr 17	K004	-	56.88
Apr 19	K004	-	42.88
Apr 23	K004	-	66.50
May 1	K004	-	49.00

Date 2002	Unit	Violation of OAC rule 3745-21-09(U) and Respondent's PTI and Title V permit (3.5 lbs of VOC/gallon)	Violation of OAC rule 3745-21-07(G)(2) (40 lbs of OC/day)
May 7	K004	-	40.25
May 22	K004	-	52.50
May 29	K004	-	50.75
Jun 10	K004	-	52.50

17. On July 30, 2002, NWDO reported, based on a conversation with the Respondent's consultant, that it was believed a PTI application would be submitted by August 9, 2002. The Respondent also found that its cleanup material was not compliant and has tested materials and found a replacement that will be compliant.

18. Proposed Director's Finding and Orders were mailed to Respondent with Orders that required submittal of a PTI modification application for PTI #03-10991 on or before August 26, 2002 and the use of cleanup materials that comply with both OAC rule 3745-21-07(G)(2) and OAC rule 3745-21-09(U) on or before August 26, 2002. A PTI modification application was submitted by Respondent's consultant on August 27, 2002, and Respondent began using compliant coatings and cleanup materials.

19. 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 Order:

Pursuant to ORC § 3704.06, the Respondent is assessed a civil penalty in the amount of thirty thousand dollars (\$30,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-four thousand dollars (\$24,000) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" and sent to Brenda Case at the following address together with a letter identifying the Respondent:

Fiscal Administration
Ohio Environmental Protection Agency

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

A copy of the check shall be sent to Jim Orlemann at the following address:

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

The remaining six thousand dollars (\$6,000) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver an official check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of the check shall be sent to Jim Orlemann at the above address.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's and the Ohio Department of Natural Resources' receipt of the official checks required by Section V of these Orders.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facility.

VIII. OTHER APPLICABLE LAWS

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, state and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

IX. MODIFICATIONS

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

X. NOTICE

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio EPA Northwest District Office
Division of Air Pollution Control
347 North Dunbridge Road
Bowling Green, OH 43402
Attn: Andrea Chapman

and to:

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

Christopher Jones
Director

Date

IT IS SO AGREED:

TODCO Division Overhead Door Corporation

Signature

Date

Printed or Typed Name

Title