

DEC 31 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Diamond Manufacturing, Inc. : Director's Final Findings
300 Commerce Way : and Orders
Upper Sandusky, Ohio 43351 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Diamond Manufacturing, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 and 3745.01.

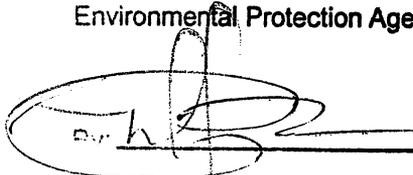
II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of Respondent or of the Facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

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.

 Date: 12/31/07

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a facility located at 300 Commerce Way, Upper Sandusky, Wyandot County, Ohio and is identified by Ohio EPA Facility ID 0388010153 ("Facility"). The Facility is currently permitted as a synthetic minor Title V facility.
2. Respondent produces hinged doors for semi-trailers and delivery trucks. The doors are made of wood and composite material. Respondent uses routers to place the hinges on the doors. The operation consists of a router table with four routers attached to make the insets for the door hinges. All four routers have ventilation pick-up points that are vented to an outside baghouse. Particulates captured by the baghouse are dropped into a barrel where the particulates are then placed into a hopper. The woodworking operation is an "air contaminant source" as the term is defined in OAC Rule 3745-31-01(I).
3. After the doors have been run through the router table, Respondent uses two spray booths to coat the doors. The first booth, designated as emissions unit R001 ("R001"), is used for coating the edges of the individual panels prior to door assembly. The second spray booth, designated emissions unit R002 ("R002"), is a large spray booth that uses a conveyor and an infrared oven to coat assembled doors. R001 and R002 are "air contaminant sources" as that term is defined in OAC Rule 3745-31-01(I).
4. A synthetic minor Permit to Install ("PTI") #03-13644 was issued to Respondent on November 15, 2001 for the installation of R001 and R002. In Respondent's PTI, R001 and R002 were given group limits for volatile organic compound ("VOC") and hazardous air pollutant ("HAP") emissions to keep the Facility from being subject to Title V permitting requirements. The PTI contained certain record-keeping and reporting requirements for R001 and R002.
5. On February 27, 2002, Ohio EPA conducted a compliance inspection at the Facility. On March 7, 2002, Ohio EPA sent Respondent correspondence which directed Respondent to calculate and maintain records in a manner consistent with the terms of the Facility's PTI. Ohio EPA also requested additional information regarding operations at the Facility. Specifically, Ohio EPA directed Respondent to calculate actual emissions based on all coatings used, not just the worst-case coating. Also, Ohio EPA requested that Respondent indicate total monthly emissions from cleanup materials prior to reclamation or disposal if Respondent wished to receive credit for waste materials that are sent off site for reclamation or disposal.
6. Furthermore, Ohio EPA requested the following information:

- a. Sufficient information on the coatings containing HDI to determine their HAP contents. The record-keeping for HAP emissions, required under C.4 of the PTI, listed HDI as a reportable HAP. That paint component was not addressed in Respondent's PTI application for the Facility, and the records provided by Respondent during the February 27th inspection did not provide sufficient information to make a determination as to its applicability to requirement C.4. Ohio EPA requested that Respondent provide this information within 14 days of receipt of the Agency's letter.
- b. Information on the coatings being used at the Facility in order to evaluate their HAP contents. The Facility's PTI application submitted for R001 and R002 listed the topcoat to be used as containing ethyl benzene and xylene. These components are listed HAPs under section 112(g) of the Clean Air Act. However, records retained by the Respondent at the Facility do not list emissions for these components. Ohio EPA requested that Respondent provide this information within 14 days of receipt of the Agency's letter.
- c. Emission calculations for the woodworking operation, which Ohio EPA discovered during the February 27th inspection. If the calculations demonstrated that certain emissions were greater than 10 pounds per day, then Respondent was directed to submit a PTI application. Ohio EPA requested these calculations within 14 days of Respondent's receipt of the Agency's letter.

7. On April 9, 2002, Ohio EPA sent a Notice of Violation ("NOV") letter to Respondent for failing to comply with the terms and conditions of the Facility's PTI and ORC § 3704.05(C). Specifically, Respondent failed to provide Ohio EPA with the emission information and calculations the Agency requested in the March 7th correspondence, in violation of PTI # 03-13644, permit term I.A.4, which directs Respondent to furnish to Ohio EPA, upon request, any information that may be requested to determine compliance, and ORC § 3704.05(C). Ohio EPA directed Respondent to submit the required records, including the emission calculations relating to the woodworking operations at the Facility, to the Agency by May 6, 2002. (The records were submitted by Respondent shortly after the Director issued the proposed Findings and Orders to the Respondent on July 6, 2007.)

8. Respondent also failed to timely submit the 4th quarter of 2001 deviation report for the Facility that was due on January 31, 2002, in violation of the terms and conditions of the Facility's PTI and ORC § 3704.05(C). In the April 9, 2002 NOV, Ohio EPA directed Respondent to submit the deviation report by May 6, 2002. (Respondent submitted the

requested deviation report shortly after the Director issued the proposed Findings and Orders to the Respondent on July 6, 2007.)

9. Respondent failed to submit permit to operate ("PTO") applications for R001 and R002 within ninety (90) days after the commencement of operation on or about November 21, 2001, in violation of the terms and conditions of Respondent's PTI, OAC Rule 3745-35-02(B)(5), and ORC § 3704.05(C) and (G). In the April 9, 2002 NOV, Respondent was directed to submit the proper PTO applications by May 6, 2002. Respondent submitted the required PTO applications to Ohio EPA on November 23, 2005.

10. OAC Rule 3745-78-02(F) requires that Respondent submit a synthetic minor Title V fee emission report for the Facility for calendar year 2002 by April 15, 2003. Respondent failed to submit its synthetic minor Title V fee emission report by April 15, 2003, in violation of OAC Rule 3745-78-02(F), ORC § 3745.11, and ORC § 3704.05(G). On October 6, 2003, Ohio EPA issued a NOV letter to Respondent directing Respondent to submit the 2002 fee emission report by November 6, 2003. Respondent submitted the Facility's 2002 fee emission report on June 24, 2005.

11. OAC Rule 3745-78-02(F) requires that Respondent submit a synthetic minor Title V fee emission report for the Facility for calendar year 2003 by April 15, 2004. Respondent failed to submit its synthetic minor Title V fee emission report by April 15, 2004, in violation of OAC Rule 3745-78-02(F), ORC § 3745.11, and ORC § 3704.05(G). On June 9, 2004, Ohio EPA issued a NOV letter to Respondent directing Respondent to submit the 2003 fee emission report on or before July 9, 2004. Respondent submitted the Facility's 2003 fee emission report on June 24, 2005.

12. The terms and conditions of Respondent's synthetic minor PTI require Respondent to maintain records detailing annual VOC emissions from coating and cleanup materials used at the Facility. From November 15, 2001 until present, Respondent failed to maintain records of annual VOC emissions from coating and cleanup materials, in violation of the terms and conditions of Respondent's synthetic minor PTI and ORC § 3704.05(C).

13. The terms and conditions of Respondent's synthetic minor PTI require Respondent to maintain records detailing the Facility's rolling, 12-month coating and cleanup material usage rates. From November 15, 2001 until the issuance of the proposed Findings and Orders by the Director, Respondent failed to maintain records of the Facility's rolling, 12-month coating and cleanup material usage rates, in violation of the terms and conditions of Respondent's synthetic minor PTI and ORC § 3704.05(C).

14. The terms and conditions of Respondent's synthetic minor PTI require Respondent to maintain records detailing the Facility's rolling, 12-month HAP emission rates. From November 15, 2001 until the issuance of the proposed Findings and Orders by the Director, Respondent failed to maintain records of the Facility's rolling, 12-month HAP emission rates, in violation of the terms and conditions of the Facility's synthetic minor PTI and ORC § 3704.05(C).

15. During a January 31, 2005 inspection by Ohio EPA, Respondent continued to generate particulate matter as part of the woodworking operation that were vented to an outside baghouse with discharge and the captured particulate matter was dropped into a barrel. OAC Rule 3745-31-02(A)(1) provides, in part, that no person shall cause, permit, or allow the installation or modification of a source of air contaminants without first applying for and obtaining a PTI from the Director. Respondent's woodworking operation is an air contaminant source as defined in OAC Rule 3745-31-01(I) and, as such, Respondent was required to apply for and obtain a PTI prior to installation of the woodworking operation. Respondent's failure to do so is a violation of OAC Rule 3745-31-02(A)(1) and ORC § 3704.05(G). As of the date of the issuance of these Orders, Respondent has failed to apply for and obtain a PTI for the woodworking operation at the Facility. (Respondent submitted a PTI application for the woodworking operation on September 27, 2007.)

16. In a February 3, 2005 NOV letter, Ohio EPA requested Respondent to submit a compliance plan to Ohio EPA by February 18, 2005, that addressed the violations discovered at the Facility.

17. OAC Rule 3745-78-02(F) requires that Respondent submit a synthetic minor Title V fee emission report for the Facility for calendar year 2004 by April 15, 2005. Respondent failed to submit its synthetic minor Title V fee emission report by April 15, 2005, in violation of OAC Rule 3745-78-02(F), ORC § 3745.11, and ORC § 3704.05(G). On May 25, 2005, Ohio EPA issued a NOV letter to Respondent directing the company to submit the 2004 fee emission report by June 25, 2005. Respondent submitted the required synthetic minor Title V fee emission report for 2004 for the Facility to Ohio EPA on June 24, 2005.

18. Respondent's synthetic minor PTI for the Facility's limited the organic compound ("OC") content in each coating employed in the operation of R001 and R002 to less than or equal to 3.5 pounds of OC per gallon of coating, as applied. Documentation relating to Respondent's operation of R001 and R002 revealed that at some time prior to July 11, 2005, Respondent employed coatings that exceeded the maximum OC content due to the addition of paint thinners, in violation of the terms and conditions of the Facility's synthetic minor PTI and ORC § 3704.05(C). Ohio EPA required Respondent to submit a compliance plan to the Agency by August 12, 2005 to address this violation.

19. On November 25, 2005, Respondent submitted a synthetic minor PTI modification application to address the OC content limitation exceedances associated with Respondent's operation of R001 and R002. The PTI modification was issued final on July 6, 2006. The OC content limitation was removed from the PTI.

20. The terms and conditions of Respondent's synthetic minor PTIs of November 15, 2001 and July 6, 2006 for emissions units R001 and R002 required that Respondent submit to NWDO quarterly reports of the following:

- (a) any deviation from emission limitations, operational restrictions, and control device operating parameter limitations that were detected by the testing, monitoring, and record-keeping requirements specified in the PTI;
- (b) the probable cause of such deviations; and
- (c) any corrective actions or preventative measures which were or would be taken.

If no deviations occurred during a calendar quarter, Respondent was to submit a quarterly report which stated that no deviations occurred during that quarter. These reports were to be submitted by January 31, April 30, July 31, and October 31 of each year for the previous calendar quarters. Except for the report for the third quarter of 2002, Respondent failed to submit quarterly reports to NWDO since the first report was due (January 31, 2002) for the fourth quarter of 2001 until the last report was due (April 30, 2007) for the first quarter of 2007, in violation of ORC § 3704.05(C). (Respondent submitted the missing quarterly reports shortly after the Director issued the proposed Findings and Orders to the Respondent on July 6, 2007.)

21. The terms and conditions of Respondent's synthetic minor PTI of November 15, 2001 for emissions units R001 and R002 required Respondent to submit annual written reports to NWDO indicating any deviation from the annual OC emission limitation established in Respondent's PTI. If no deviation occurred, Respondent was required to submit a report indicating that fact. The reports were due by January 31 of each year and were to cover the previous calendar year. Respondent failed to submit annual reports to NWDO for 2002 through 2005, in violation of ORC § 3704.05(C). Furthermore, the first report for calendar year 2001 was submitted late (February 27, 2002), in violation of ORC § 3704.05(C). (Respondent submitted the missing annual reports on June 21, 2007.)

22. The terms and conditions of Respondent's synthetic minor PTI of July 6, 2006 required Respondent to submit to NWDO annual reports of both the actual OC emissions, per year, from R001 and R002, and the actual OC emissions, per year, from cleanup

operations for emissions units R001 and R002 combined. These reports were to be submitted by January 31 of each year and were to cover the previous calendar year. Respondent failed to submit to NWDO such annual report for calendar year 2006 by January 31, 2007, in violation of ORC § 3704.05(C). (Respondent submitted the annual report for 2006 shortly after the Director issued the proposed Findings and Orders to the Respondent on July 6, 2007.)

23. 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. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of fifty-four thousand dollars (\$54,000) in settlement of Ohio EPA's claims for civil penalties. Respondent shall pay Ohio EPA the amount of forty-three thousand two hundred dollars (\$43,200) of the total penalty amount in accordance with the following schedule: \$14,400 within 120 days of the effective date of these Orders, \$14,400 within 210 days of the effective date of these Orders, and \$14,400 within 300 days of the effective date of these Orders. The payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, Fiscal Specialist, or her successor, together with a letter identifying the Respondent, to:

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

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
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of payment to Ohio EPA of the remaining ten thousand eight hundred dollars (\$10,800) of the civil penalty, Respondent shall fund the supplemental environmental project ("SEP") identified in Order 3. In the event Respondent defaults or otherwise fails to complete the project as specified in Order 3, the \$10,800 for the project 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 ten thousand eight hundred dollars (\$10,800) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment within 30 days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio", for \$10,800. 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.

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 Respondent's operation of 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 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, Ohio 43402
Attn: Don Waltermeyer

and to:

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

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

XII. WAIVER

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

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

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

XIII. EFFECTIVE DATE

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

XIV. SIGNATORY AUTHORITY

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

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

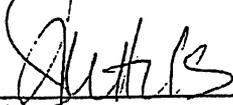


Chris Korleski
Director

12/31/07
Date

IT IS SO AGREED:

Diamond Manufacturing, Inc.



Signature

12/20/07
Date

Stephanie Kethels

Printed or Typed Name

President

Title