

DEC 17 2009

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Evonik Degussa Engineered
Carbons Corporation
11135 State Route 7
Belpre, Ohio 45714

:
:
:
:
:

Director's Final Findings
and Orders

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

PREAMBLE

It is agreed by the parties hereto as follows:

By: Daryl Lassiter Date: 12-17-09

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 feedstock 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. Respondent reported to Ohio EPA that the temperature during the January 2008 test was the result of a technical oversight by site personnel who failed to reduce the combustor temperature during the test. Respondent indicated that using the lower combustor temperatures of the 2005, 2006 and 2007 stack tests that demonstrated compliance, Respondent would have been in compliance for all but a limited number of instances.

9. On March 17, 2009, Respondent performed a follow-up emission test for EUs P011 and P012 which demonstrated compliance. 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

10. 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.

11. 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

12. 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).

13. 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).

14. Respondent failed to immediately 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). The failure to provide immediate notification in these instances was discovered by Respondent who then reported the failure on quarterly deviation reports, which were received by Ohio EPA on January 28, 2009.

15. SEDO issued notices of violation ("NOV") to Respondent addressing the violations described in the Findings 6 through 14. The NOV's were dated March 17, 2008, November 20, 2008, and March 4, 2009. Respondent provided responses to the NOV's on April 14, 2008, May 14, 2008, December 5, 2008, and April 8, 2009.

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

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of thirty-four thousand three hundred and ten dollars (\$34,310) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-seven thousand four hundred and forty-eight dollars (\$27,448) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining six thousand eight hundred and sixty-two dollars (\$6,862) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$6,862 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$6,862. 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
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 in Order 2, Respondent shall immediately pay to Ohio EPA \$6,862 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

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

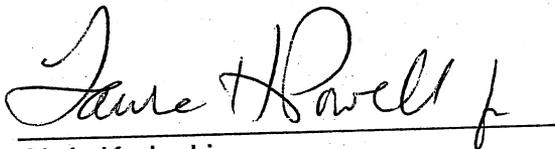
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

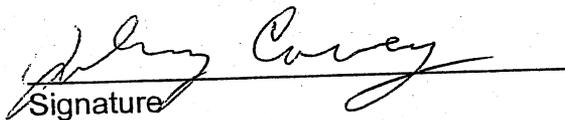


Chris Korleski
Director

12-15-09
Date

AGREED:

Evonik Degussa Engineered Carbons Corporation



12-10-2009
Date

JOHNNY COUEY
Printed or Typed Name

VP PRODUCTION & TECHNOLOGY
Title