

OHIO E.P.A.

JUN 23 2010

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Iten Industries, Inc. (Plant 1)
4001 Benefit Avenue
Ashtabula, Ohio 44005

:
:
:

Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

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

III. DEFINITIONS

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

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a facility called Plant 1 and located at 4001 Benefit Avenue, Ashtabula in Ashtabula County, Ohio. At the facility, Respondent manufactures thermoplastic and thermoset plastic parts. Five emissions units ("EUs"), which are identified in the following table, are among the EUs at the facility, and they are all controlled by a common thermal oxidizer:

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.

By: [Signature] Date: _____

EU ID	Company ID	Company Description	Installation Date
K001	Treater #2	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1973
K002	Treater #1	Egan treater for paper and fabric coating with phenolic and epoxy resins	03/01/1961
K003	Treater #3	Epoxy and phenolic resin coating of paper and fabric	08/01/1982
K004	Treater #4	Epoxy and melamine coating of fiberglass fabric	02/01/1991
P003	Phenolic Resin Mixing	Phenolic resin and epoxy resin mixing for use at treaters	03/01/1968

EUs K001, K002, K003, K004 and P003 are each an "air contaminant source" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

2. OAC Rule 3745-21-09(B)(6) states, in part, that in lieu of complying with the pounds of volatile organic compounds ("VOCs") per gallon of solids limitations in OAC Rule 3745-21-09(F) and (G), any owner or operator of such a coating line that employs a control system may choose to demonstrate that the capture and control equipment provide not less than 81 percent reduction, by weight, in the overall VOC emissions from the coating line and that the control equipment has an efficiency of not less than 90 percent, by weight, for the VOC emissions vented to the control equipment. Respondent selected to comply with OAC Rule 3745-21-09(B)(6).

3. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(2) stated, in part, that a person shall not discharge more than 40 pounds of organic material into the atmosphere in any one day, nor more than 8 pounds in any one hour, from any article, machine, equipment, or other contrivance, unless said discharge has been reduced by at least 85 percent, by weight.

4. Prior to February 18, 2008, OAC Rule 3745-21-07(G)(6)(a) stated, in part, that if emissions of organic materials into the atmosphere are to be reduced pursuant to OAC Rule 3745-21-07(G)(2) by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide.

5. On and after February 18, 2008, OAC Rule 3745-21-07(M)(1) and (M)(2) replaced the requirements of OAC Rule 3745-21-07(G)(2) and (G)(6) for EU P003. For EU P003, OAC Rule 3745-21-07(M)(1) indicates that such unit is subject to the control requirements of OAC Rule 3745-21-07(M)(2). OAC Rule 3745-21-07(M)(2) specifies that EU P003 shall be equipped with capture and control equipment that reduces the organic compound emissions from such unit by an overall control efficiency of at least 85 percent, by weight. Furthermore, that rule specifies that, if the reductions are obtained by incineration, then 90 percent or more of the carbon in the organic material being incinerated must be oxidized to carbon dioxide. Respondent employs an incineration

system to control organic material emissions and, therefore, is subject to the 90 percent oxidation requirements.

6. A Title V permit was issued by Ohio EPA for the facility on December 31, 2002, became effective on January 16, 2003, and expired on January 16, 2008. The terms and conditions of the expired Title V permit remain in effect until final action is taken by the Director on Respondent's timely filed renewal Title V application, pursuant to OAC Rule 3745-77-06(A).

7. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EUs K001, K002, K003, and K004 in compliance with at least the minimum allowable overall VOC emission control efficiency and at least the minimum allowable VOC control efficiency of OAC Rule 3745-21-09(B)(6) in lieu of the requirements of OAC Rule 3745-21-09(F) and (G).

8. The terms and conditions of the Title V permit for the facility specify that Respondent maintain EU P003 in compliance with at least the minimum allowable overall organic material reduction efficiency and at least the minimum allowable organic material destruction efficiency of OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a), respectively.

9. The testing requirements for EUs K001, K002, K003, and K004 under Part III of the Title V permit state, in part, that the emission testing shall be conducted within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rule 3745-21-09(B)(6). Specifically, testing shall demonstrate at least an 81 percent overall reduction of VOCs emitted by the emissions units and at least a 90 percent destruction of the VOCs that enter the thermal oxidizer. The tests shall be conducted while the EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by Northeast District office of Ohio EPA ("NEDO").

10. The testing requirements for EU P003 under Part III of the Title V permit state, in part, that Respondent was to conduct emission testing within 3 months after permit issuance and within 6 months prior to permit expiration. The emission testing shall be conducted to demonstrate compliance with OAC Rules 3745-21-07(G)(2) and 3745-21-07(G)(6)(a). Specifically, testing shall demonstrate at least an 85 percent reduction, by weight, in the organic material emitted by emissions units K001, K002, K003, K004 and P003 and at least a 90 percent destruction of the organic material that enters the thermal oxidizer. The tests shall be performed while EUs K001, K002, K003, K004, and P003 are operating at or near their maximum capacities, unless otherwise specified or approved by NEDO.

11. On November 23, 2007, NEDO received an intent-to-test notification form from Respondent. Respondent indicated that it would conduct performance tests on EUs

K001, K002, K004, and P003 on December 28, 2007. Respondent's Title V permit that expired on January 16, 2008, required Respondent to conduct emissions testing on EUs K001, K002, K003, and K004 within 6 months of the expiration date of the permit.

12. EU K003 was not included in the intent-to-test notification form because, on December 13, 2007, Respondent sent a request to NEDO to restrict operations at its facility by allowing only three of the four EUs (K001, K002, K003, and K004) to operate at any given time, and to exempt EU K003 from Title V performance testing because it is rarely used and has only 69 percent of the capacity of the other three EUs due to its width limitation. It was also indicated that Respondent has historically operated only three treaters at any one time. On February 25, 2008, the Director of Ohio EPA sent a letter to Respondent granting the exemption of EU K003 from Title V performance testing and to restrict the operations to three of the four treaters at any one time.

13. On December 28, 2007, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on March 18, 2008. The VOC destruction efficiencies for the three 1-hour sampling runs were 77.7 percent, 73.7 percent, and 75.2 percent (an average of 75.5 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	75.5%	≥ 85%	75.5%
Destruction efficiency	≥ 90%	75.5%	≥ 90%	75.5%

14. Respondent failed to comply with the overall control efficiency and destruction efficiency associated with EUs K001, K002, K004, and P003, in violation of OAC Rule 3745-21-09(B)(6), former Rule 3745-21-07(G)(2), former Rule 3745-21-07(G)(6) and Rule 3745-21-07(M)(2), Title V permit terms and conditions, and ORC § 3704.05(G) and (J)(2).

15. On April 18, 2008, NEDO sent a notice of violation ("NOV") letter to Respondent for failing to meet the overall control and destruction efficiency limits and requested a compliance plan and schedule.

16. On April 29, 2008, NEDO received Respondent's compliance plan. Respondent indicated that the problem was cracks in several of the VOC pre-heater tube bundles within the unit prior to VOC combustion and these cracks allowed uncombusted emissions to escape to the egress point. Respondent anticipated repairs to be completed within 30 days. In a letter dated August 10, 2009, Respondent indicated that the thermal

oxidizer was shut down from May 18, 2008 through May 28, 2008 for major repairs.

17. On June 4, 2008, NEDO received an intent-to-test notification form from Respondent for the re-test after the repairs.

18. On July 17, 2008, Respondent conducted a performance test on EUs K001, K002, K004 and P003. Since the four EUs are controlled by a common thermal oxidizer, the test consisted of three 1-hour sampling runs of the oxidizer inlet and outlet. Since the emissions units are completely enclosed, the overall efficiency equals the destruction efficiency for each run. NEDO received the stack test report on August 18, 2008. The VOC destruction efficiency of the three 1-hour sampling runs were 98.62 percent, 98.70 percent, and 97.73 percent (an average of 98.68 percent). The following table shows the average efficiencies in comparison to the limits:

	VOC emissions from EUs K001, K002, and K004		OC emissions from EU P003	
	Allowable	Average	Allowable	Average
Overall control efficiency	≥ 81%	98.68%	≥ 85%	98.68%
Destruction efficiency	≥ 90%	98.68%	≥ 90%	98.68%

19. Based on the results of the compliance re-test results, NEDO sent a return-to-compliance letter to Respondent on September 23, 2008.

20. 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 be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of thirty thousand dollars (\$30,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Payment to Ohio EPA shall be made by official checks made payable to "Treasurer, State of Ohio." The payments shall be made in two installments per the following schedule:

- Nine thousand dollars (\$9,000) of the total amount due within thirty (30) days after the effective date of these Orders; and
- Fifteen thousand dollars (\$15,000) of the total amount due by June 15, 2011.

The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

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

2. In lieu of paying the remaining six thousand dollars (\$6,000) 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 in the amount of \$6,000 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 \$6,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the 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 \$6,000 of the civil penalty in accordance with the procedures in Order 1.

VI. TERMINATION

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

VII. OTHER CLAIMS

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

VIII. OTHER APPLICABLE LAWS

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

IX. MODIFICATIONS

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

X. NOTICE

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

Northeast District Office
Ohio Environmental Protection Agency
2110 East Aurora Rd.
Twinsburg, Ohio 44087
Attn: Tony Becker

and to:

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

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

XI. RESERVATION OF RIGHTS

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

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically

cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

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

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

XIII. EFFECTIVE DATE

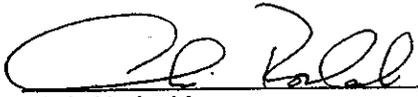
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XIV. SIGNATORY AUTHORITY

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

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Chris Korleski
Director

6/22/10

Date

AGREED:

Iten Industries, Inc.



Signature

6/14/10

Date

Peter Huggins

Printed or Typed Name

Pres.

Title