



Mike DeWine, Governor  
Jon Husted, Lt. Governor  
Laurie A. Stevenson, Director

February 27, 2019

**CERTIFIED MAIL**

Mr. Ryan A. Burke  
President  
OSCO Industries, Inc.  
P.O. Box 1388  
734 11<sup>th</sup> Street  
Portsmouth, Ohio 45662

Re: Final Findings and Orders for air pollution  
violations

Dear Mr. Burke,

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 that is stamped on the first page of the Orders.

Sincerely,



James Kavalec, Manager  
Compliance/Enforcement Section  
Division of Air Pollution Control

ec: Patty Porter, DAPC  
Jessica Kuenzli, DAPC-SEDO  
Kim Rhoads, Legal Office  
Lee Tullis, DAPC

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

**In the Matter of:**

**OSCO Industries, Inc.**  
**P.O. Box 1388**  
**734 11<sup>th</sup> Street**  
**Portsmouth, Ohio 45662**

**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: Joseph Kasser Date: 2/27/19

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to OSCO 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 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 gray iron foundry ("facility") located at 165 Athens Street, Jackson (Jackson County), Ohio, which is referred to as the "Jackson Division" and identified by Ohio EPA as facility ID 0640010009. At the facility, Respondent employs two pouring boxes where gray iron that is produced in a cupola (identified by Ohio EPA as Emissions Unit P903) is poured into molds where it is allowed to cool. Pouring Box # 1 was installed in 1985 and Pouring Box # 2 was installed in 1992, they are identified by Ohio EPA as Emissions Units F007 and F008, respectively. The particulate matter emissions generated by the two pouring boxes,

along with a nine-foot rotary cooling drum and vibratory shakeout (identified by Ohio EPA as Emissions Unit P908), are captured through hoods and directed to two particulate fabric filter control devices, identified by Respondent as the Wheelabrator Collector and the IAC Collector. The facility is classified as a major source for both Prevention of Significant Deterioration ("PSD") and the Title V operating permit programs.

2. Emissions Units F007 and F008 emit, among other air pollutants, carbon monoxide ("CO"), and particulate matter ("PM") and particulate matter with an aerodynamic diameter of 10 microns or less ("PM10"). PM10 was not a regulated pollutant at the time Emission Unit F007 was installed.

3. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions. Similarly, ORC § 3704.05(J)(2) prohibits 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).

4. ORC § 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704.

5. Ohio Administrative Code ("OAC") Rule 3745-31-13(A) prohibits any major stationary source or major modification located in an attainment area from beginning actual construction unless, at a minimum, the requirements in OAC Rules 3745-31-01 through 3745-31-20 have been met and the stationary source has obtained a valid Ohio EPA permit to install ("PTI").

6. OAC Rule 3745-31-01(NNN) defines, in part, a "major stationary source" as any secondary metal production plant located in an attainment area that emits or has the potential to emit ("PTE"), in the aggregate, 100 tons per year ("TPY") or more of any pollutant subject to regulation under the Clean Air Act ("CAA"), excluding pollutants listed in Section 112(b) of the CAA. Respondent's facility emits and/or has the PTE regulated air pollutants in excess of 100 TPY and is classified as a major stationary source and is located in an attainment area for CO.

7. OAC Rule 3745-31-01(SSS) defines, in part, a "modification" as any physical change in, or change in the method of operation of any air contaminant source. OAC Rule 3745-31-01 (LLL) defines, in part, a "major modification" as any physical change in or change in the method of operation at a major stationary source that would result in a significant net emissions increase.

8. OAC Rule 3745-31-01(VVVVV) defines, in part, "significant" in reference to a net emission increase or the PTE of a major stationary source to emit a new source review ("NSR") pollutant in amounts equal to or in excess of a specified annual

emission rate, expressed in tons per year. Major modifications are required to perform a complete PSD pre-construction review, including the application of Best Available Control Technology ("BACT"), and obtain a PSD permit prior to start of the major modification. The significant net emission rate for CO is 100 TPY.

9. In or around February 1985 and March 1992, Respondent applied for a PTI to authorize the installation of Pouring Box # 1 and # 2, respectively. The applications did not contain estimations or information regarding the emissions units' emission of CO because, according to Respondent, at the time CO was not a known pollutant of concern in the industry for these emissions units. As a result, the applications did not address Best Available Technology ("BAT") CO emission requirements and the resulting PTIs did not contain CO emission limitations including the application of BAT. However, Respondent's original Title V permit applications received by Ohio EPA on November 7, 1996, indicated these emissions units had the PTE CO at or above the CO significant emission increase rate.

10. As requested by Ohio EPA, Respondent submitted administrative permit modification applications for Emission Units F007 and F008 on or about October 7, 2015, to establish BAT emission limitations.

11. On October 7, 2016, Ohio EPA issued PTI P0119668, and on December 30, 2016 issued P0122090. The PTIs created an emissions unit group consisting of Emissions Units F007 and F008 and established identical BAT CO limitations of 15.73 pounds per hour and 36.81 tons per year for each of emissions units (i.e., combined 31.46 pounds per hour and 73.62 tons per year for both of emissions units). The PTIs also restricted Emissions Units F007 and F008's individual operating hours and production to 4680 hours and 30,420 tons, respectively, per rolling 12-month period ("operational restrictions"), consistent with the restrictions established in 1995 for Emission Unit P903. The emission limitations were based on the permit's operational restrictions and the best available CO emissions information at the time.

12. On November 13, 2017, Ohio EPA issued a Renewal Title V operating permit (P089580) to Respondent with the newly established CO emission limitations and required Respondent to conduct compliance emission testing for the emissions unit group, including CO emission testing, within six months of the Renewal Title V operating permit issuance date.

13. In accordance with the Title V operating permit, Respondent conducted the CO emission compliance test for Emissions Units F007, F008, and P908 on April 10, 11 and 13, 2018. The tests disclosed that the average combined CO emission rate from the IAC and Wheelabrator exhaust stacks exceeded the combined 31.46 pounds per hour emission limitation. Specifically, the average combined CO emission rate for the emissions units was determined to be 137.97 pounds per hour. Respondent failed to demonstrate compliance with the BAT CO emission limitation specified in its Title V operating permit and PTIs. Additionally, this hourly average emission rate in combination

with the facility operational restrictions shows that both Emissions Units F007 and F008 exceeded the PSD significant CO emission increase rate of 100 tons per year.

14. On May 4, 2018, Respondent submitted the failed CO emissions compliance test results to Ohio EPA, and on May 7, 2018, Respondent submitted an Intent-To-Test ("ITT") to perform a retest of Emissions Units F007 and F008 CO emissions.

15. On May 18, 2018, Respondent retested Emissions Units F007 and F008 CO stack emissions; the test results showed the average combined CO emission rates were 144.99 pounds per hour; again, the hourly emission rate exceeded the individual 15.73 pounds per hour emission limitations and demonstrated that both Emissions Units F007 and F008 PTE exceed the PSD significant CO emission increase rate.

16. On June 14, 2018, Ohio EPA sent a notice of violation ("NOV") letter to Respondent for Emissions Units F007 and F008 failure to comply with the CO emission limitations contained in Title V operating.

17. On July 13, 2018, Ohio EPA meet with Respondent to discuss the submittal of a "retroactive" PSD review permit application. During this meeting Respondent indicated that its production processes have not changed since the installation of Emissions Units F007 and F008 in 1985 and 1992, respectively.

18. In email correspondence between Respondent and Ohio EPA dated November 8, 2018, Respondent indicated that both the 1985 (i.e., installation of pouring box # 1) and the 1992 (i.e., installation of pouring box # 2) projects exceeded the PSD significant emission increase threshold rate for CO.

19. As demonstrated by the combined hourly average CO emission rates measured during the April and May 2018 compliance tests, Emissions Units F007 and F008 both have the potential to exceed the 100 tons per year PSD major modification applicability threshold for CO. While Respondent has indicated it was not aware of CO emissions from pouring/cooling operations at the time, Respondent began construction of a major modification without obtaining a PSD PTI and demonstrating through a pre-construction review that the requirements of OAC Rules 3745-31-11 through 3745-31-20 would be met when it installed Emissions Unit F007 in or around June 1985, in violation of OAC Rule 3745-3113(A) and ORC § 3704.05(G). Likewise, Respondent reported that it was not aware of CO emissions from pouring/cooling operations at the time when Respondent again violated the requirements of OAC Rule 3745-31-13(A) and ORC § 3704.05(G) by beginning construction of a major modification without obtaining a PSD preconstruction PTI for the installation of Emissions Unit F008 in or around June 1992. Respondent also failed to comply with the combined 31.46 pounds per hour BAT CO limitation specified in PTIs P0119668 and P0122090 and its Title V permit, in violation of ORC §§ 3704.05(C) and (J)(2).

20. The Director has given consideration to, and based her 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. In accordance with OAC Chapter 3745-31, Respondent shall submit, within 120 days after of the date of effective date of these Orders, applicable PSD permit applications for the major modifications that occurred with the start of construction of Emissions Units F007 and F008, which at a minimum demonstrate that the requirements specified in OAC Rules 3745-31-01 through 3745-31-20 have been and/or will be met.

2. Respondent shall pay the amount of forty-eight thousand dollars (\$48,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. 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 forty-eight thousand dollars (\$48,000). The official check shall be submitted to Carol Butler, 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

## **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, these obligations have been embedded in operation permits where appropriate, 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 (JJ) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

#### **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:

Ohio EPA  
Southeast District Office  
2195 Front Street  
Logan, Ohio 43138  
Attention: Jessica Kuenzli

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Jim Kavalec, Manager Compliance and  
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 and all violations of ORC Chapter 3704 known to Ohio EPA up through the effective date of these Orders.

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**

Laurie A. Stevenson  
Laurie A. Stevenson  
Director

2/26/19  
Date

**AGREED:**

**OSCO Industries, Inc.**

Ryan A. Burke  
Signature

2/16/19  
Date

RYAN A. BURKE  
Printed or Typed Name

PRESIDENT  
Title