

Ohio EPA 2/22/2021
Entered Directors Journal

By:  Date: _____

2/22/2021

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

AS America, Inc.-Salem, OH Plant : **Director’s Final Findings**
605 S. Ellsworth Avenue : **and Orders**
Salem, Ohio 44460 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director’s Final Findings and Orders (“Orders”) are issued to AS America, Inc.-Salem, OH Plant (“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. Nothing in these findings of the Director shall be considered an admission of liability by Respondent of any matter of law or fact.

1. Respondent owns and operates a facility located at 605 S. Ellsworth Avenue, in Salem, Columbiana County, Ohio. This facility manufactures bathroom fixtures and it is identified by Ohio EPA facility ID 0215090011.
2. Emission units (“EUs”) R008 (FRP Lamination Line #1) and R022 (FRP Lamination Line #2) controlled by a Polyad control device at the facility are the subject of these Orders and subject to Ohio EPA rules and regulations.

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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.

4. Federally Enforceable Permit-to-Install and Operate ("FEPTIO") permit P0126786 for the facility became effective on July 31, 2019.

5. On January 15, 2020, Respondent performed a partial emissions test using USEPA's Method 25A, but the test was aborted as it appeared that the control efficiency was well below the limit of 93% by weight. Because these results may have not been reflective of actual styrene emissions, engineering testing was performed on January 23, 2020 using USEPA's Method 18. This testing still showed that the minimum control efficiency for styrene was less than 93%, by weight, in violation of the terms and conditions of FEPTIO P0126786 and ORC § 3704.05(C). In addition, Respondent failed to complete a compliant emissions test by January 31, 2020 (180 days after issuance of the permit), in violation of the terms and conditions of FEPTIO P0126786 and ORC § 3704.05(C).

6. On February 7, 2020, Ohio EPA Northeast District Office ("NEDO") sent a notice of violation ("NOV") letter to Respondent for the violation listed above and requested Respondent to submit a compliance plan and schedule.

7. On April 13, 2020, Respondent completed an engineering study on the current Polyad control system to determine whether to replace the system and what the potential control device alternatives might be, using US EPA's cost benefit calculations. Based on the engineering study, Respondent selected a new regenerative thermal oxidizer ("RTO") installation to replace the current Polyad control system.

8. Throughout 2020, Respondent has conducted multiple engineering emissions tests on the Polyad control system and the Optipore media used in the system. These engineering tests focused on adding more Optipore media with each event to determine a life cycle curve. The most recent test events held on August 18 and August 25, 2020 achieved a 78% average styrene destruction efficiency in the Polyad control system. The results of the engineering tests showed that the media degrades quickly due to polymerization of styrene on the surface and blinding of the pore structure, thus reducing its effectiveness. Due to the reduced control efficiency, Respondent has exceeded its daily emissions limits established in the permit over 150 days this year, in violation of the terms and conditions of FEPTIO P0126786 and ORC § 3704.05(C).

9. On September 14, 2020, Respondent sent a GANTT chart to Ohio EPA that provided major milestones for the installation of the new RTO control device for R008 and R022.

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10. To date, Respondent has completed the soil boring(s) for foundation design, the preliminary layout (foundation, duct routing, stack location, etc.), held discussions with subcontractors for out of scope items (foundation, stack roof penetration, electrical, natural gas, compressed air to the RTO), had orders issued by Catalytic Products International (CPI) for component parts, completed the RTO foundation and completed the fabrication, assembly and commissioning of the RTO .

11. Respondent expects to complete tie-in of the RTO by February 15, 2021 per their provided GANTT chart.

12. Respondent expects to complete stack testing of the RTO by March 23, 2021 per their provided GANTT chart.

13. On September 21, 2020, Respondent sent to Ohio EPA an interim emission mitigation control plan that maintains the Polyad control system in proper operation during the installation period of the RTO for R008 and R022.

14. On November 16, 2020, Respondent exceeded the 9.5 TPY styrene limit as outlined in its permit, in violation of the terms and conditions of FEPTIO P0126786 and ORC § 3704.05(C).

15. 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. Respondent shall follow the interim emission mitigation control plan for the Polyad control system submitted to Ohio EPA on September 21, 2020 during the entire RTO installation and commissioning as referenced in Finding No. 13 of these Orders.

2. By no later than March 31, 2021, Respondent shall have installed, commissioned and tested the new RTO. Respondent shall follow the milestones laid out in the GANTT chart submitted to Ohio EPA on September 14, 2020. On the first of each month, Respondent shall submit milestone updates to Ohio EPA. Should Respondent not be able to comply with the timeframes in this Order, due to issues outside of Respondent's control related to the COVID-19 pandemic, Respondent shall submit a written extension request for Ohio EPA's approval that includes adequate justification that Respondent made all feasible efforts to meet the original deadline. Approval of such an extension request shall not be unreasonably withheld.

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3. Respondent shall submit a performance Intent-To-Test ("ITT") notification to NEDO for approval thirty (30) days prior to the test. Respondent shall specify in ITT notice the proposed test methods and production rates to be used to determine the concentration and emissions rates. Test methods must use US EPA reference methods or procedures or approved alternative methods subject to Ohio EPA approval.

4. Until the new RTO is operational, on a daily basis, Respondent shall conduct odor surveillance around the perimeter of the facility to determine if styrene emissions can be detected migrating offsite. The surveillance shall be conducted during normal operating conditions. In addition, Respondent shall keep an odor surveillance log that documents the following: date and time of the surveillance, if odors were detected, the strength of those odors, and wind direction. The odor surveillance log shall be provided to Ohio EPA upon request.

5. Respondent shall pay the amount of eighteen thousand dollars (\$18,000) 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 eighteen thousand dollars (\$18,000). 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) and for a corporation it is a corporate

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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 submitted through the Ohio EPA's eBusiness Center: Air Services web service and emailed to James Kavalec at James.Kavalec@epa.ohio.gov; Kevin Fortune at Kevin.Fortune@epa.ohio.gov; 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 or arising from the same facts and circumstances, 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.

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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. Electronic or facsimile signatures shall be accepted as if originals.

**ORDERED AND AGREED:
Ohio Environmental Protection Agency**




Laurie A. Stevenson
Director

2/22/2021

Date

**AGREED:
AS America, Inc.-Salem, OH Plant**

DocuSigned by:


Signature F7C13C7A1C5345C...
Edward Manley VP & Controller

Printed or Typed Name and Title

1/29/2021

Date