


BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
NOV 28 2006

ENTERED DIRECTOR'S JOURNAL  


In the Matter of:

3M Medina	:	<u>Director's Final Findings</u>
P.O. Box 428	:	<u>and Orders</u>
Medina, Ohio 44258-0428	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to 3M Medina ("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 hereafter 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 has determined the following findings:

1. Respondent owns and operates several coating operations that apply either solvent or water-based coatings to a variety of materials at a facility, located at 1030 Lake Road, Medina, Medina County, Ohio. Respondent is a division of 3M Company with headquarters located at I-94 McKnight Road, St. Paul, Minnesota.
2. At the above-referenced facility, Respondent owns and operates emissions units K001-K005 and L001, which are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W) and ORC § 3704.01(C).

3. At Respondent's facility, emissions unit ("EU") K001 coats vinyl films. EUs K002, K003 and K004 apply water-based pressure sensitive adhesives to various materials. EU K005 coats a continuous paper or film web. EU L001 is a solvent cold cleaner.

4. Respondent's facility is a Title V facility due to its volatile organic compound ("VOC") emissions exceeding the threshold of 100 tons per year. The Title V permit for Respondent's facility was issued by Ohio EPA on April 25, 2001.

5. OAC Rule 3745-21-09(H)(2)(b) requires the owner or operator of a vinyl coating operation to meet the ninety percent (90%), by weight, control efficiency requirement.

6. OAC Rule 3745-21-09(B)(3)(l) requires the owner or operator of a catalytic incinerator for a coating line to record all three-hour periods during which the average temperature difference across the catalyst bed was less than 80 percent of the average temperature during the most recent stack test.

7. OAC Rule 3745-21-09(B)(3)(m) requires the owner or operator of a coating line to submit quarterly reports of the average temperature difference across the catalyst bed.

8. OAC Rule 3745-77-07(A)(1) requires the owner or operator of a coating line to meet and comply with all applicable operational restrictions that were specified in its Title V permit.

9. ORC § 3704.05(A) prohibits any person from allowing any emissions from any source in excess of that permitted in any rule adopted by the Director of Ohio EPA. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. ORC § 3704.05(J)(2) prohibits any person from not complying with any filing requirement of the Title V permit program.

10. On June 28, 2004, the Akron Regional Air Quality Management District ("ARAQMD"), Ohio EPA's contractual representative in Medina County, conducted an inspection of Respondent's facility. During this inspection, ARAQMD's representative documented that Respondent failed to: (1) record, since August 1, 2002 (date of ownership transferred from the previous owner), all three-hour periods during which the average temperature difference across the catalyst bed was less than eighty percent of the average temperature during the most recent performance test that demonstrated that the source was in compliance for EU K001, in violation of OAC Rule 3745-21-09(B)(3)(l), the Title V permit and ORC § 3704.05(C), (G) and (J)(2); and (2) submit reports of deviations of the average temperature difference across the catalyst bed serving EU K001 since October 31, 2003, in violation of OAC Rule 3745-21-09(B)(3)(m), the Title V permit and ORC § 3704.05(C), (G) and (J)(2).

11. On July 21, 2004, ARAQMD sent Respondent a notice of violation ("NOV") letter for the violations that were documented during its June 28, 2004 inspection. In this NOV, ARAQMD requested Respondent to begin complying with the record keeping and reporting requirements for its applicable emissions units and to respond to the ARAQMD within fourteen (14) days from receipt of the NOV.

12. On July 29, 2004, Respondent contacted ARAQMD via E-mail to request additional time to respond to ARAQMD's July 21, 2004 NOV.

13. On July 19, 2004, Respondent submitted the 2<sup>nd</sup> quarter 2004 deviation report to the ARAQMD for EU K001. This deviation report indicated the catalytic incinerator serving EU K001, for 10 days between August 12, 2003 to October 30, 2004, the average temperature difference across the catalyst bed, for any 3-hour block of time when the emissions unit was operating at or near maximum VOC loading conditions, could not meet 80 percent of the average temperature difference during the most recent emission test that demonstrated the emissions unit K001 was in compliance, in violation of OAC Rule 3745-77-07(A)(1), the Title V permit and ORC § 3704.05(C), G) and (J)(2). Also, attached to this quarterly deviation report was an engineering test report for the test that was voluntarily performed on June 1, 2004. The test result indicated that the catalytic incinerator was at 82% control efficiency and did not meet the 90% control efficiency requirement, in violation of OAC Rule 3745-21-09(H)(2)(b), the Title V permit and ORC § 3704.05(C), (G) and (J)(2).

14. By a letter dated August 26, 2004, Respondent replied to ARAQMD's July 21, 2004 NOV letter. In this letter, Respondent indicated that it began to comply with record-keeping and report requirements that were cited in July 21, 2004 NOV letter since the beginning of August 2004.

15. Based on a review of Respondent's records in October 2004, ARAQMD discovered that Respondent failed to: (1) record, from August 1, 2002 (date of ownership transferred from previous owner) to August 16, 2004 (first date of compliance), all three-hour periods during which the average temperature difference across the catalyst bed was less than eighty percent of the average temperature during the most recent performance test that demonstrated that the source was in compliance for EU K001, in violation of OAC Rule 3745-21-09(B)(3)(l), the Title V permit and ORC § 3704.05(C), G) and (J)(2); and (2) timely submit reports of deviations (for the 3<sup>rd</sup> and 4<sup>th</sup> quarters of 2003) of the average temperature difference across the catalyst bed serving EU K001 for the time period from October 31, 2003 (deadline) to September 28, 2004 (date reports were submitted), in violation of OAC Rule 3745-21-09(B)(3)(m), the Title V permit and ORC § 3704.05(C), G) and (J)(2).

16. On April 15, 2005, Respondent de-commissioned the catalytic incinerator for EU K001 and re-routed the exhaust line to a regenerative thermal oxidizer incinerator that was serving EU K005. On March 29, 2006, Respondent conducted the engineering test on this control equipment and yielded a result of 98.2%, by weight, for the control efficiency.

Based on this result, ARAQMD concluded that from June 1, 2004 to March 29, 2005, Respondent failed to meet the 90% control efficiency requirement, in violation of OAC Rule 3745-21-09(H)(2)(b), the Title V permit and ORC § 3704.05(A), (C), (G) and (J)(2).

17. On August 17, 2006, ARAQMD sent Respondent a NOV letter for the violations ORC § 3704.05(C) that were documented during its August 10, 2006 inspection of the facility. In this NOV, ARAQMD requested Respondent to begin complying with the record-keeping and reporting requirements for certain emissions units and to submit documentation showing that the unpermitted emissions unit (Slitter #10) met the "De Minimis" exemption under OAC Rule 3745-15-05. ARAQMD requested Respondent to reply to its NOV within fourteen (14) days from receipt of the NOV.

18. By a letter dated October 2, 2006, Respondent replied to ARAQMD's August 17, 2006 NOV letter. In this letter, Respondent indicated that it began to comply with record-keeping and reporting requirements that were cited in the August 17, 2006 NOV letter immediately after the August 10, 2006 inspection. Also, Respondent submitted the calculations showing that the unpermitted emissions unit met the "De Minimis" exemption under OAC Rule 3745-15-05.

19. According to ARAQMD, Respondent's facility is currently operating in compliance with all applicable air rules and regulations.

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 to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of seventy-four thousand dollars (\$74,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within fourteen (14) 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 fifty-nine thousand and two hundred dollars (\$59,200) 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  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining fourteen thousand and eight hundred dollars (\$14,800) of civil penalty, Respondent shall, within fourteen (14) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a

contribution in the amount of \$14,800 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$14,800. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, 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 timeframe set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$14,800 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**

Except as otherwise specified in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Akron Regional Air Quality Management District  
CityCenter - Suite 904  
146 South High Street  
Akron, Ohio 44308  
Attn: Laura Miracle

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
Lazarus Government Center  
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 specially 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.

**IT IS SO ORDERED AND AGREED:**

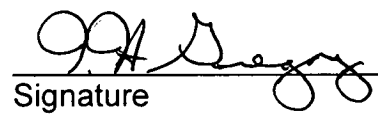
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Joseph R. Koncelik  
Director

11/27/06  
Date

**IT IS SO AGREED:**

3M Medina

  
\_\_\_\_\_  
Signature

Date 11/15/06

Thomas H. Gregory  
Printed or Typed Name

Business Director  
Title