

BEFORE THE

OHIO E.P.A.

OHIO ENVIRONMENTAL PROTECTION AGENCY

SEP 14 2003

ENTERED DIRECTOR'S JOURNAL
in the Matter of

Marathon Electric Manufacturing Corporation	:	<u>Directors Final Findings</u>
200 East Chapman Road	:	<u>and Orders</u>
Lima, Ohio 45802	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Marathon Electric Manufacturing 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) owned by Respondent, 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 has determined the following findings:

1. Respondent manufactures electrical components and motors at its facility located at 200 East Chapman Road, Lima, Allen County, Ohio. At this facility, among other emissions units, Respondent employs a 430 stator dip coating line (Ohio EPA emissions unit K005, Dip Tank #3), a rust inhibitor dip tank (Ohio EPA emissions unit K008, Dip Tank #4), and a polybutadiene dip tank (Ohio EPA emissions unit K011), each of which involves surface coating of miscellaneous metal parts and each releases emissions of volatile organic compounds ("VOC"), as defined in Ohio Administrative Code ("OAC") Rule 3745-21-01. Each of the above emissions units is an "air contaminant source," as defined in OAC Rule 3745-15-01(C) and (W). Each of the above emissions units is considered to be a "new source," as defined in OAC Rule 3745-31-01(TTT), in that each was constructed

or modified after January 1, 1974, through a Permit to Install. Respondent's facility has a potential to emit greater than 100 tons per year of VOCs and, therefore, is a "major source," as defined by OAC Rule 3745-77-01 and is subject to the Title V permit program of OAC Chapter 3745-77.

2. ORC § 3704.05(A) states that no person shall allow the emission of an air contaminant in violation of any rule adopted by the Director of Ohio EPA unless the person is the holder of a variance permitting the emission of the contaminant in excess of that permitted by the rule or the person is the holder of an operating permit that includes a compliance schedule.

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 or conditions.

4. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704.

5. ORC § 3704.05(J)(2) states, in part, that no person shall violate any applicable requirements of a Title V permit or any permit condition, except for an emergency as defined in Chapter 40 of the Code of Federal Regulations 70.6(g).

6. OAC Rule 3745-21-09 specifies control requirements for VOC emissions from stationary sources. Paragraph (U) of this rule is applicable to sources in Allen County, if construction or modification of such sources commenced on or after October 19, 1979, or such sources are located at a facility having the potential to emit 100 tons or more of VOC per calendar year. OAC Rule 3745-21-09(U)(1) restricts VOC emissions from surface coating operations of miscellaneous metal parts and products, except where exempted under paragraph (U)(2) of this rule. Paragraph (U)(2)(e)(iii) of the rule exempts any miscellaneous metal parts or products coating line that never uses more than ten gallons per day from the requirements of paragraph (U)(1) of the rule.

7. Ohio EPA issued a Title V permit to Respondent (premise number 03-02-02-0282) on December 12, 2001. Among other requirements, Respondent is required by the permit to submit quarterly deviation reports and quarterly negative declaration reports for the facility. Respondent is also required to maintain daily and monthly coating usage records for emissions unit K005. In addition, Respondent is required to restrict coating usage for emissions unit K008 to 10.0 gallons per day. VOC emissions for emissions unit K008 are also limited to 53.8 pounds of VOC emissions per day. If the 10.0 gallons per day restriction for emissions unit K008 is exceeded, the Title V permit and OAC Rule 3745-21-09(B)(3)(e) require Respondent to report the exceedance to the Director within 45 days of the exceedance; the permit also requires Respondent to report all emission limit exceedances for emissions unit K008 to the Director on a quarterly basis. Furthermore, the Title V permit requires that daily and annual VOC emission records and daily coating usage records for emissions unit K011 be maintained and that annual emission reports for the emissions unit be submitted to the Director.

8. On June 11, 2003, staff from Ohio EPA, Northwest District Office ("NWDO") conducted a compliance inspection of Respondent's facility. During the inspection, the following violations were noted:

a. General

- i. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part I.A.1.c.iii. Respondent failed to submit deviation reports (including negative declaration reports) for the facility for monitoring, record-keeping, and reporting requirements every six months, as required by the State and Federally Enforceable section of the general terms and conditions of its Title V permit. Specifically, Respondent had not submitted the reports required by its Title V permit for the second half of 2001, and all of 2002.
- ii. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part I.B.8. Respondent failed to submit quarterly negative declaration reports for the facility for Federally enforceable emission limitations, operational restrictions, or control device operating parameters limitations as required by the State Only Enforceable section of the general terms and conditions of its Title V permit. Specifically, Respondent had not submitted the reports required by its Title V permit for the fourth quarter of 2001, all of 2002, and the first quarter of 2003.

b. Emissions unit K005

- i. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part III, A.III.1. Respondent failed to maintain daily coating usage records required by its Title V permit since the issuance of the permit (i.e., December 12, 2001).
- ii. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part III, A.III.2. Respondent failed to maintain monthly coating usage records since the issuance of its Title V permit (i.e., December 12, 2001).

c. Emissions unit K008:

- i. Violation of ORC § 3704.05(C), (G), and (J)(2), OAC Rule 3745-21-09(U)(2)(e), and Respondent's Title V permit, Part III, A.I.1. Respondent used more than 10.0 gallons per day of coating on four separate days in 2003 (i.e., on February 19, March 5, April 10, and May 19, 2003). Maximum coating use violation occurred on March 5, when 13.25 gallons of coating were used.

- ii. Violation of ORC § 3704.05(C) and (J)(2), PTI #03-6560, and Title V permit, Part III, A.I.1. More than 53.8 pounds of VOC per day were emitted from the emissions unit on four separate days in 2003 (i.e., on February 19, March 5, April 10, and May 19, 2003). Maximum emission violation occurred on March 5, when 71.3 pounds of VOC were released.
 - iii. Violation of OAC Rule 3745-21-09(B)(3)(e), ORC § 3704.05(C), (G), and (J)(2), and Title V permit, Part III, A.IV.1. Respondent failed to report coating usage restriction exceedances within 45 days on three occasions (i.e., for the violations that occurred on February 19, March 5, April 10, 2003).
 - iv. Violation of ORC § 3704.05(C), (G), and (J)(2) and Title V permit, Part III, A.IV.2. Respondent failed to submit quarterly emission exceedance reports for the above violations.
- d. Emissions unit K011:
- i. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part III, A.III.1. Respondent failed to maintain daily coating usage and VOC emission records since the issuance of its Title V permit (i.e., December 12, 2001).
 - ii. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part III, A.III.2. Respondent failed to maintain annual VOC emission records since the issuance of its Title V permit (i.e., December 12, 2001).
 - iii. Violation of ORC § 3704.05(C) and (J)(2) and Title V permit, Part III, A.IV.3. Respondent failed to submit an annual emission report for calendar year 2002 for this emission unit. Report was due to be submitted to the Director by February 1, 2003.

9. In letters dated June 16, 17, and 18, 2003, Respondent submitted the required deviation and negative declaration reports as identified in Findings 8.a.i, 8.a.ii, 8.c.iii, 8.c.iv., and 8.d.iii above.

10. On June 19, 2003, NWDO sent a Notice of Violation ("NOV") to Respondent regarding the violations discovered during the June 11, 2003, inspection, as described in Finding 8 above.

11. In a letter dated July 23, 2003, Respondent replied to the NOV and described the actions it had taken to correct the violations, including development of new logsheets and spreadsheets to track coating usage, and a change in facility procedures to

avoid the accumulation of large quantity of parts (which led to the use of an excessive amount of coating, as cited in Findings 8.c.i. and 8.c.ii.). NWDO determined that Respondent's responses adequately addressed the violations, effective June 30, 2003.

12. Based on the above Findings, the Director of Ohio EPA finds that Respondent violated the following OAC rules and ORC laws:

- a. OAC Rule 3745-21-09(U)(2)(e), and ORC § 3704.05(C), (G), and (J)(2), by exceeding the coating usage limit for emissions unit K008;
- b. ORC § 3704.05(C) and (J)(2), for not complying with the VOC emission limits specified in the facility's PTI and Title V permit for emissions unit K008; and
- c. OAC Rule 3745-21-09(B)(3)(e), and ORC § 3704.05(C), (G), and (J)(2), for not complying with the applicable record-keeping and reporting requirements of the facility's Title V permit.

13. 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. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of fifty thousand dollars (\$50,000) in settlement of Ohio EPA's claims for civil penalties. Respondent shall pay Ohio EPA the amount of forty thousand dollars (\$40,000) of the total penalty amount according to the following payment schedule:

Ten thousand dollars (\$10,000) due within ninety (90) days after the effective date of these Orders;

Ten thousand dollars (\$10,000) due within one hundred and eighty (180) days after the effective date of these Orders;

Ten thousand dollars (\$10,000) due within two hundred and seventy (270) days after the effective date of these Orders; and

Ten thousand dollars (\$10,000) due within three hundred and sixty (360) days after the effective date of these Orders.

Each payment shall be made by an official check made payable to "Treasurer, State of Ohio." Each 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 ten thousand dollars (\$10,000) 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 \$10,000 to the Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$10,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address.

3. A copy of each check 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 pay to Ohio EPA \$10,000 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, Respondent's operation of the facility specified in these Orders.

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 Environmental Protection Agency
Northwest District Office
Division of Air Pollution Control
347 North Dunbridge Road
Bowling Green, Ohio 43402
Attention: Don Waltermeyer, Unit Supervisor

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 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

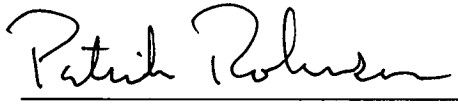


Joseph P. Koncelik
Director

Date 7/2/05

IT IS SO AGREED:

Marathon Electric Manufacturing Corporation



Signature

Date 8/24/05

Patrick Robinson

Printed or Typed Name

EHS Manager

Title