

OHIO E.P.A.

BEFORE THE

JAN 27 2005 OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED IN THE JOURNAL
In the Matter of:

Pechiney Plastic Packaging, Inc.
1972 Akron Peninsula Road
Akron, Ohio 44313

**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 Pechiney Plastic Packaging, Inc. (Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) Sections 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 Respondent's facility (as identified hereinafter) 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. However, nothing in the following findings shall be deemed to be an admission by Respondent of any matter of law or fact:

1. Respondent is a subsidiary of Pechiney, an international manufacturing company, headquartered in Paris, France. Respondent owns and operates a manufacturing facility located at 1972 Akron Peninsula Road, Akron Ohio.
2. At the Akron facility, Respondent manufactures flexible packaging primarily for the food, meat, dairy, healthcare, and specialty markets.

3. At the Akron facility, Respondent operates emissions units (EUs) K003, K006, K008, K010, K013, K015, K016, and K020, all of which are flexographic printing presses. The EUs are permitted under Permit to Install (PTI) #16-02184, issued on June 4, 2002, and the Title V permit issued to Respondent on January 30, 2002. These EUs each constitute an air contaminant source as defined in Ohio Administrative Code (OAC) Rule 3745-31-01(D), and the facility is a Title V source, as defined in OAC Rule 3745-77-01. All the EUs employ an interlock system that prevents the operation of each specific unit should materials not meeting the VOC content limitations of OAC Rule 3745-21-09(Y)(1)(a)(i) or (ii) be utilized.

4. From November 5 to 7, 2002, Envisage Environmental, Inc. conducted stack tests on behalf of Respondent, in order to determine Respondent's compliance with its Title V permit, the terms and conditions of PTI # 16-02184, and OAC Rule 3745-21-09.

5. The results of the stack tests were received by the Akron Regional Air Quality Management District (ARAQMD), Ohio EPA's contractual representative in Summit County, on January 7, 2003. The results indicated that EUs K003, K006, K008, K010, K013, K015, K016, and K020 were operating in violation of the Title V permit, PTI # 16-02184, and OAC Rule 3745-21-09(Y)(1)(b)(ii), which require that the printing lines be equipped with a control system that is designed and operated to achieve a control efficiency of at least 90% by weight for volatile organic compound (VOC) emissions. The results of the stack tests indicated that thermal incinerator #1, thermal incinerator #2, and catalytic incinerator #3, which all serve EUs K003, K006, K008, K010, K013, K015, K016, and K020, were operating during the tests at control efficiencies of 89.2%, 80.16%, and 85.08% by weight for VOC, respectively. The exceedance of this control efficiency limitation also constitutes violations of ORC Sections 3704.05(A), (C), (G) and (J)(2).

6. By letter dated January 29, 2003, ARAQMD issued a Notice of Violation (NOV) to Respondent for the violations of the control efficiency limitation. ARAQMD requested that Respondent submit a complete compliance plan and schedule, within 14 days of receipt of the NOV, to address the violations and to return the EUs to compliance.

7. By letter dated February 6, 2003, ARAQMD issued an NOV to Respondent for failing to report emission limitation deviations in its January 29, 2003 quarterly deviation report, as required by its Title V permit and PTI # 16-02184, in violation of ORC Sections 3704.05(C) and (J)(2). The NOV requested submittal of a revised Title V quarterly report and PTI quarterly deviation report that addresses all emission limitation deviations, no later than 14 days from receipt of the NOV.

8. On February 10, 2003, Respondent, Ohio EPA, and ARAQMD met to discuss the results of the November 5 to 7, 2002 stack tests. During the meeting, Respondent indicated that it intended to install a new incinerator at the facility to replace the three incinerators that had been tested in November 2002.

9. By letter dated February 13, 2003, Respondent responded to the NOVs issued on January 29, 2003, and February 6, 2003. The response letter contested the allegation that the Respondent failed the November 2002 stack tests and stated that consequently it was not in violation of any quarterly deviation reporting requirements.

10. By letter dated March 10, 2003, Respondent submitted results of the capture efficiency testing conducted for EU K020 on November 5, 2002, as required by PTI #16-02184. Respondent chose to use the alternative test method for capture testing, as allowed in PTI #16-02184. On March 24, 2003, ARAQMD responded to the March 10th letter from Respondent, indicating that the testing on November 5, 2002, did not meet the requirements of the alternative method for capture testing.

11. Respondent completed installation of the new oxidizer on June 28, 2003. Stack tests were performed on November 4, 2003, and the results indicated that Respondent passed the stack test with a VOC control efficiency of 98.1% by weight.

12. By letter dated February 25, 2004, Respondent stated that it believed that all field testing was conducted correctly and that further capture testing of K020 is not warranted or required.

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 benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. By no later than May 1, 2005, Respondent shall demonstrate that EU K020 is in compliance with the capture efficiency limitation in PTI # 16-02184 by testing pursuant to Order 2, and shall maintain compliance thereafter.

2. By no later than April 1, 2005, Respondent shall conduct, or have conducted, VOC emission capture efficiency tests on EU K020. Not later than thirty (30) days prior to the proposed test date, the permittee shall submit an "Intent to Test" notification for to ARAQMD. The ITT notification form shall describe in detail

the proposed test methods and procedures, the EU operating parameters, the time(s) and date(s) of the tests, and the person(s) who will be conducting the tests. Failure to submit such notification for review and approval prior to the tests may result in ARAQMD's refusal to accept the results of the emission tests.

Personnel from ARAQMD shall be permitted to witness the tests, examine the testing equipment, and acquire data and information necessary to ensure that the operation of the EU and the testing procedures provide a valid characterization of the emissions from the EU and/or the performance of the control equipment. The capture efficiency of the hooding serving the EU shall be tested using EPA Method 204B in conjunction with EPA Methods 24 and 204F.

A comprehensive written report on the results of the emissions test shall be signed by the person or persons responsible for the tests and submitted to ARAQMD within thirty (30) days following completion of the tests. The permittee may request additional time for the submittal of the written report, where warranted, with prior approval from ARAQMD.

3. Pursuant to ORC Section 3704.06, Respondent is assessed a civil penalty in the amount of sixty-three thousand dollars (\$63,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days from the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of sixty-three thousand dollars (\$63,000) by official check made payable to Treasurer, State of Ohio and sent to Brenda Case, Fiscal Specialist, at the following address:

Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to James A. Orlemann, Assistant Chief, Enforcement Section, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
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 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 the person authorized to sign in OAC Rule 3745-35-02(B)(1) for a corporation or a duly authorized representative of Respondent as that term is defined in the above-reference rule.

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. NOTICE

All documents required by these Orders, unless otherwise specified in writing, shall be submitted to:

Akron Regional Air Quality Management District
Citicenter - Suite 904
146 South High Street
Akron, OH 44308
Attn: Lynn Malcolm

and to:

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

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

X. MODIFICATIONS

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

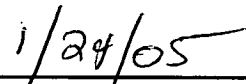
Each undersigned representative of a party to these Orders certifies that she or he is fully authorized to enter into these Orders and to legally bind such party to this document.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Joseph P. Koncelik
Director



Date

IT IS SO AGREED:



Signature

January 12, 2005

Date

Robert J Mosesian

Printed or Typed Name

Vice President Finance & IT

Title