

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Akron Thermal L.P.
226 Opportunity Parkway
Akron, Ohio 44307

:
:
:

Director's Final Findings
and Orders

EMERGED DIRECTOR'S JOURNAL

AUG 20 2002

OHIO E.P.A.

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Akron Thermal L.P. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 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 relating to the facility identified in Finding 1 below 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 used in R.C. Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent owns and operates a facility at 226 Opportunity Parkway in Akron, Ohio, which provides steam and chilled water for Akron's central business district for approximately 200 governmental, commercial, residential, and industrial facilities. At this facility, Respondent employs the following combustion equipment:

<u>Company ID</u>	<u>Equipment Description</u>	<u>Ohio EPA Emissions Unit ID</u>
Boiler #32	220 mmBtu/hr coal-fired boiler	B001
Boiler #31	267 mmBtu/hr natural gas/fuel oil-fired	B002
Unit #1	180 mmBtu/hr wood chip-fired boiler	N001
Unit #2	180 mmBtu/hr natural gas-fired boiler	N002
Unit #3	180 mmBtu/hr natural gas-fired boiler	N003

Emission unit B001 incorporates a multiclone and an electrostatic precipitator ("ESP") for control of particulate emissions ("PE"). Emissions units N001, N002, and N003 are equipped with a common ESP to control PE, and the Title V permit conditions for these units require the opacity of the emissions from the stack serving these three units to be continuously monitored by means of a continuous opacity monitoring system ("COMS").

2. B001, B002, N001, N002, and N003 each constitute an "air contaminant source," as defined in OAC Rule 3745-31-01(D), and an "emissions unit," as defined in OAC Rule 3745-77-01(O). Also, the facility constitutes a "Title V source," as defined in OAC Rule 3745-77-01(LL). A final Title V permit was issued on February 4, 1999 for this facility pursuant to OAC Chapter 3745-77.

3. On January 24, 2000, a meeting was held with representatives from Ohio EPA, the Akron Regional Air Quality Management District ("Akron RAQMD"), which is Ohio EPA's contractual representative in Summit County, and Respondent to discuss the use of alternate fuels (i.e., used oil) at Respondent's facility that could be burned for energy recovery to generate steam for the facility.

4. Respondent's legal representative, Squire, Sanders and Dempsey L.L.P. ("SSD"), by letter dated February 8, 2000 to Ohio EPA and Akron RAQMD, as a follow-up to the meeting of January 24, 2000, discussed Respondent's understanding of Ohio EPA's position regarding the use of alternative fuels (i.e., on-specification used oil) at the facility. This letter indicated that Respondent planned to commence the use of used oil as fuel for emissions units B002, N001, N002 and N003. Furthermore, the letter indicated that the use of on-specification used oil would not result in any exceedance of existing emission limitations, was not expressly prohibited by any applicable rule or requirement and, therefore, could be burned in these units without a Permit to Install ("PTI) pursuant to OAC Chapter 3745-31. In addition, for emissions unit B002, the letter indicated that Respondent identified a recycled oil with ash and sulfur contents that would not exceed Title V permit emission limits of 0.02 pound of particulate emissions/mmBtu and 0.51 pound of sulfur dioxide/mmBtu of actual heat input when burned. Lastly, the letter indicated Respondent planned to commence use of this fuel in emissions unit B002 shortly and would comply with the used oil analysis and record keeping requirements in OAC Chapter 3745-279 to verify that each shipment of oil met the on-specification criteria.

5. Akron RAQMD's response (dated March 22, 2000) to Respondent's legal representative's letter of February 8, 2000 indicated disagreement with Respondent's conclusions that the alternative fuel could be employed at any time without applying for and obtaining a PTI. This conclusion was primarily based on the fact that Respondent failed to provide sufficient emission information (i.e., actual and potential emission data) to determine whether or not the burning of used oil constituted a "modification" as defined in OAC Chapter 3745-31. In addition, the proposal did not address potential permit ramifications under Title V. Neither the Title V application submitted on September 30, 1996 nor historical permit applications indicate the combustion of used oil as an alternative operating scenario, nor is it listed as a back-up fuel for any of the emissions units in question. Also, the Respondent, although agreeing to conform to the record keeping and reporting requirements of OAC Chapter 3745-279, failed to establish the exact nature of the record keeping/reporting in the Title V application or the February letter, as the existing Title V permit does not contain such provisions for used oil and compliance with OAC Chapter 3745-279 requirements. Akron RAQMD concluded in the letter that without sufficient information from Respondent to fully evaluate the proposal relative to Title V requirements, that it could not agree with the presumption that the change (i.e., burning of used oil) could take place without any further notice or action on the part of Respondent.

6. On April 13, 2000, a representative from Akron RAQMD took opacity readings of the stack for emissions unit N003, which indicated a violation of OAC rule 3745-17-07(A) and R.C. 3704.05(A) and (G). Opacity readings (actual individual readings ranged from 10% to 70%) greater than the visible PE limitation of 20% opacity were observed. Three sets of six-minute average opacity readings resulted in values of 60%, 55%, and 28%. Since this visible PE limitation is found in Section A.1 of the terms and conditions of the Title V permit for emissions unit N003, these exceedances also constitute a violation of R.C. 3704.05(C). The observer from Akron RAQMD spoke with an employee of the Respondent and determined that during the readings emissions unit N003 was in operation burning used crankcase oil (see Finding 9). Ohio EPA finds that the combustion of used oil in emissions unit N003 meets the definition of a "modification" as defined in OAC Rule 3745-31-01(VV), and Respondent failed to apply for and obtain a PTI for this modification, in violation of OAC Rule 3745-31-02 and R.C. 3704.05(G).

7. Respondent's legal representative, SSD, submitted a response letter dated April 14, 2000 to Akron RAQMD's letter of March 22, 2000. The letter reiterated Respondent's position that since the emissions units in question are capable of accommodating oil and gaseous fuels, as that phrase is used in OAC Rule 3745-31-01(VV)(1)(a)(v), using an oil or gaseous fuel in the units is not a modification requiring a PTI unless Respondent is "expressly prohibited from using (the fuel) under any permit condition or applicable requirement of the federal Clean Air Act." Emission calculations were attached indicating existing Title V permit limits would not be exceeded with any of the on-specification used oils that Respondent planned to burn in the future. Concerning the monitoring and record keeping requirements in OAC Chapter 3745-279 that Akron

RAQMD stated should be incorporated into the Title V permit, Respondent replied that they are not applicable requirements as defined in OAC Rule 3745-77-01 and do not belong in the Title V permit.

8. Akron RAQMD replied to Respondent's letter of April 14, 2000 by letter dated April 26, 2000. Akron RAQMD again indicated that it was not in agreement with the arguments and conclusions contained in the letter and that Akron RAQMD concluded that Respondent needed to apply for and obtain a PTI from Ohio EPA before implementing this change in the method of operation (i.e., using used oils for fuel). Specifically, Akron RAQMD pointed out that the emission calculations submitted in Respondent's April 14, 2000 letter for emissions unit B002, indicate an exceedance of the unit's potential to emit for PE while firing used oil, and greater than de minimis levels of air contaminants not previously emitted (lead and hydrochloric acid). This therefore met the definition of a modification according to Akron RAQMD. In addition, Akron RAQMD addressed Respondent's "capable of accommodating" analysis as an exclusion for permit modification. Akron RAQMD's guidance indicated that "capable of accommodating" included only situations included in the final construction specifications of the units in question. File reviews of permitting documents did not indicate that used oil was considered in the design and construction of emissions unit B002. For emissions units N001 through N003, construction plans and specifications did not address used oil as a possible fuel; therefore, these emission units are not capable of accommodating the alternative fuel and the exclusion does not apply.

Akron RAQMD requested that Respondent refrain from any further combustion of used oil in emission units N001, N002, N003, and B002. It was Akron RAQMD's understanding that Respondent had already fired used oil in emissions units B002 and N003 and, based on the above interpretation and discussion, Respondent appeared to be in violation of OAC Chapter 3745-31. The letter requested Respondent, within 14 days of receipt of the letter, provide Akron RAQMD a listing of dates and times that used oil was fired, equipment and quantities involved, and provide analyses of the combusted used oil.

9. Respondent replied by letter dated May 11, 2000 concerning the request from Akron RAQMD in Finding 8. Respondent indicated that two units had burned on-specification used oil, i.e., emissions units B002 and N003. An attached table provided dates and usage. The table indicated that emissions unit B002 burned used oil on 55 various days beginning on September 21, 1999 and ending on March 18, 2000 with a total of 257,697 gallons burned. Emissions unit N003 burned used oil on 17 various days beginning on March 10, 2000 and ending on April 13, 2000 with a total of 87,027 gallons burned. Respondent continued to believe that burning on-specification used oil in units designed to burn fuel oil does not violate PTI rules and that the City of Akron's consent agreement with U.S. EPA not to burn MSW does not preclude Respondent from burning on-specification used oil in emissions units N001 through N003. Respondent stated that it would like to schedule a meeting to discuss using the PTI process to set limits on the

type of used oil that can be burned at the facility. The letter stated that Respondent proceeded to burn used oil in February 2000 based upon the laboratory analysis and emission calculations indicating that these used oils could be burned without exceeding existing permit limits and the understanding coming from the meeting in Columbus on January 24, 2000. Respondent, while still disagreeing with Ohio EPA/Akron RAQMD's interpretation that the fuel switch to used oil required a PTI, had voluntarily suspended the burning of used oil until the issue could be resolved. Based on the information supplied to Akron RAQMD by Respondent, Ohio EPA finds the combustion of used oil in emissions unit B002 meets the definition of a "modification" as defined in OAC Rule 3745-31-01(VV), and Respondent failed to apply for and obtain a PTI for this modification, in violation of OAC Rule 3745-31-02 and R.C. 3704.05(G). In addition, Respondent failed to promptly submit correct information and supplementary facts in its Title V permit application concerning the modification of B002 and N001, in violation of OAC Rule 3745-77-03(F) and R.C. 3704.05(G).

10. On May 26, 2000, Akron RAQMD took opacity readings of visible PE from the stack serving emissions unit B002. These readings indicated an exceedance of the 20% opacity limitation, in violation of OAC Rule 3745-17-07(A) and R.C. 3704.05(A) and (G) and the Title V permit for this unit. Individual readings were as high as 90% opacity. Five sets of six-minute average opacity readings resulted in values of 46.9%, 37.5%, 16.3%, 18.3% and 16.7%. A report from Respondent indicated the cause to be the light-off of emissions unit B002 on natural gas (residual dust in the emissions unit from a recent overhaul). Also, violation of a Title V permit limitation is a violation of R.C. 3704.05(C).

11. On May 30, 2000, a meeting was held with Respondent and representatives from Akron RAQMD. The purpose of the meeting was to discuss compliance issues relating to the combustion of used oil in emissions units B002 and N003, and other compliance issues that came to light as a result of the used oil combustion. As a result of the investigation into the April 13, 2000 opacity violation (Finding 6), it was discovered that the COMS was not in service as required by the terms and conditions of the Title V permit, in violation of R.C. 3704.05(C). Respondent indicated that the COMS was taken down when emissions units N001 through N003 stopped incinerating municipal waste and, per an understanding with Akron RAQMD, was not required as long as firing with natural gas was occurring. The COMS was placed back into service at a later date and downtime was reported to be 8.5 days or 203 hours. As per Finding 9, used oil was being burned in emissions unit N003 between March 10, 2000 and April 13, 2000.

Discussions also included the combustion of used oil in emissions unit B002 appearing to be in violation of the 0.020 pound of PE/mmBtu of actual heat input limitation of the terms and conditions of the Title V permit, Section A.1. To comply with this limit, the ash content of the oil must be less than 0.05% by weight (AP-42 emission factor determination); Respondent's analysis and/or specification sheets did not clearly demonstrate that the used oil was less than 0.05% and indicated ash content to be no

greater than the range of 0.1% to 1.4%. Respondent stated that the ash content limit was exceeded when it first began firing used oil in September 1999 and stopped in November 1999 when it realized a compliance problem based on in-house testing. Respondent began to fire used oil for a second time in February 2000, which contained a lower ash content; yet the ash analysis sensitivity was still no better than 0.1%. To comply with the 0.020 pound of PE/mmBtu, the terms and conditions of the Title V permit did not specify an actual ash content limitation, but required the oil burned in the emissions unit to have a greater than 139,000 Btu heat content specification per gallon of oil, as received (Section A.II.1.b). This heat content was then used with the AP-42 emission factor for PE resulting from the operation of **distillate oil-fired** equipment to determine compliance with the emission limitation (Section A.V.1.a). Respondent's letter of May 11, 2000 (Finding 9), with the attached table of used oil usage, also indicated that emissions unit B002 burned used oil on 38 days from September 21, 1999 to November 20, 1999 which had an ash content of 1.0% or less, in exceedance of the ash content limit required to comply with the 0.020 pound of PE/mmBtu limitation. This documentation confirmed violations of the terms and conditions of the Title V permit, Section A.1. In addition, Respondent did not follow the reporting requirements of its Title V permit, as it did not report oil usage for the third and fourth quarters of 1999 (this period covered the test firings), in violation of R.C. 3704.05(C), but it did submit the first quarter of 2000 usage report.

Ohio EPA believes the combustion of used oil in emissions unit N003 met the definition of a change in operation (modification), as defined in OAC Rule 3745-31-01(VV), requiring a PTI that Respondent failed to apply for and obtain (as stated in Finding 6 and with emissions unit B002 above), in violation of OAC Rule 3745-31-02 and R.C. 3704.05(G).

Another issue that was discussed at the meeting was the storage of used oil in a 500,000 gallon, above ground, fixed roof tank that was not listed in the Title V permit application and not included in the Title V permit, in violation of OAC Rule 3745-77-03(F) and R.C. 3704.05(G). Respondent claimed that it was not being used until the year 2000, but reported organic compound emissions in the year 2000 fee emission report covering calendar year 1999 pursuant to OAC Chapter 3745-78. The tank was installed in the 1960's.

12. The final Title V permit issued to Respondent required Respondent to submit a Compliance Certification for the facility by April 30, 2000 (general terms and conditions Part I, A.1 and A.12). Respondent did not submit the certification by the required date, in violation of R.C. 3704.05(C). In addition, Respondent failed to provide standard deviation reports as required under the general terms and conditions of its Title V permit, in violation of 3704.05(C). After Akron RAQMD notified Respondent of the deficiencies, Respondent submitted the deviation reports and compliance certification on June 20, 2000.

13. Respondent submitted PTI application #16-02053 on June 22, 2000 for modifications of the existing PTI to clarify the use of used oil meeting certain criteria and defining wood waste that Respondent wished to burn in emissions units N001 through N003.

14. A warning letter dated January 10, 2001 from Akron RAQMD was sent to Respondent concerning excessive downtime of the COMS in the stacks serving emissions units N001, N002, and N003. Excess emission report summaries (EERs) submitted by Respondent for the first, second, and third quarters of 2000 were reviewed by Akron RAQMD and indicated exceedances of the 5% action level for monitor downtime based on total time of operation for each quarter. Regarding emissions units N001 and N002, the EERs for the third quarter 2000 indicated that there were 2,940 minutes of COMS downtime, which was approximately 8% of the total time of operation of N001; N002 did not operate during the quarter. Regarding emissions unit N003, the EERs for the first quarter 2000 indicated that there were 13,200 minutes of COMS downtime, which was 100% of the total time of operation. Used oil was test burned in this unit during the quarter. For the second quarter of 2000, the EERs indicated that there were 7,800 minutes of COMS downtime for emissions unit N003, which also was 100% of the total operating time while test burning used oil. For the third quarter of operation, the COMS downtime for emissions unit N003 was 726 minutes, which was 25% of the total operating time. Natural gas was the only fuel burned during the quarter and, therefore, there were no visible PE to be monitored. Respondent was notified by this letter that Akron RAQMD considered the third quarter 2000 COMS downtime for emissions unit N001, and the COMS downtime for the first two quarters of 2000 for emissions unit N003, to be excessive and, therefore, in violation of the Title V permit terms and conditions in Section A.III.1 and R.C. 3704.05(C).

15. By letter dated February 14, 2001, Ohio EPA informed Respondent that it would have to agree to operational restrictions in order to avoid Prevention of Significant Deterioration ("PSD") and Nonattainment Major New Source Review from the firing of used oil. Also, Ohio EPA indicated that the use of used oil would result in a "modification" under New Source Performance Standards ("NSPS") and trigger NSPS requirements. On behalf of Respondent, SSD responded to the findings of Ohio EPA's February 14 letter by letter dated February 22, 2001. SSD stated that applicability determinations were based on outdated or incorrect emissions factors and provided discussion on other emissions factors and emissions calculations. SSD agreed that the issues were complex and suggested that a meeting would be helpful in resolving the situation.

16. On May 17, 2001, a meeting was held between representatives of Respondent, including SSD, and staff of Ohio EPA and Akron RAQMD. In letter dated June 5, 2001, SSD summarized the issues and agreements from the May 17 meeting and provided additional support indicating no increase in allowable short term carbon monoxide ("CO") and total organic compound ("TOC") emission rates as a result of the proposed change to burning used oil for energy recovery. SSD felt that burning used oil would not trigger major or non-major modification permitting and stated that Respondent planned to

avoid PSD review by accepting an enforceable permit limit on the sulfur content of the used oil it will burn. SSD raised the possibility of revising the draft PTI to allow restricted used oil burning, burning of all types of clean wood, and to eliminate municipal solid waste. Ohio EPA replied to SSD's letter of June 5, 2001 by letter dated November 6, 2001. Ohio EPA concluded that the proposed switch to used oil constitutes a "change in the method of operation" and indicated that an analysis of the net emissions change must be conducted to determine if the fuel switch would be considered a major modification. Ohio EPA also believed that the 1996 fuel switch to scrap wood triggered NSPS Subpart Db applicability due to the resultant short term emissions increase in nitrogen oxides ("NOx"). Again, Ohio EPA suggested a meeting to discuss these issues, with the hope of developing a plan to allow Respondent to move forward regarding the alternative fuels.

17. Following the suggested meeting in November, Respondent under cover letter dated November 20, 2001, submitted a revised Permit to Install application and requested withdrawal of previous PTI application #16-02053. The new application requested expedited review and approval of a PTI to allow the combustion of a limited quantity and quality of used oil without triggering PSD review. Issues regarding scrap wood fuel would be addressed separately. Akron RAQMD responded to Respondent's request by letter dated November 21, 2001, returning previously submitted application #16-02053 because it could not be approved as received.

18. PTI #16-02187 was issued on March 26, 2002. This permit allowed the combustion of a restricted quantity of used oil in emission units N001, N002, and N003 as requested by the Respondent. The PTI now identifies emission units N001, N002 and N003 as B003, B004 and B005.

19. 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. Respondent shall operate and maintain emission units B001, B002, N001, N002, and N003 (N001, N002 and N003 are now identified as B003, B004 and B005, respectively, in PTI #16-02187) in compliance with the requirements of OAC Rules 3745-31-02, 3745-17-07(A), and 3745-77-03(F), and with the terms and conditions of Respondent's PTIs and Title V permit and any renewals or modifications thereto. Respondent shall submit a complete and approvable Title V permit application incorporating the new provisions, resulting from the issuance of PTI #16-02187, within one

year of the PTI issuance date, March 26, 2002, pursuant to OAC rule 3745-77-03(F).

2. Pursuant to R.C. 3704.06, Respondent is assessed a civil penalty in the amount of fifty-one thousand two hundred dollars (\$51,200) in settlement of Ohio EPA's claim for civil penalties. Of this amount, Respondent shall pay to Ohio EPA the amount of seven thousand two hundred fifty-seven dollars (\$7,257) in accordance with the payment schedule in Order 7. Payments shall be made by certified checks made payable to "Treasurer, State of Ohio" and sent to Brenda Case, Fiscal Specialist, or her successor, at the following address:

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

In lieu of payment to Ohio EPA of the remaining forty-three thousand nine hundred forty-three dollars (\$43,943) of the total penalty amount, Respondent shall perform the supplemental environmentally beneficial project identified in Order 3 and the penalty credit project identified in Order 4. Of the \$43,943, \$10,240 shall be used to fund the project in Order 3, and \$33,703 shall be used to fund the project in Order 4.

In the event Respondent defaults or otherwise fails to complete the project as specified in Order 4, the \$33,703 shall immediately become due and payable to Ohio EPA. Such payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Brenda Case at the above-stated address.

A copy of each of the above checks shall be sent to James A. Orlemann, or his successor, at the following address:

Ohio Environmental Protection Agency
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

3. Respondent shall perform the supplemental environmentally beneficial project consisting of funding urban area tree-planting projects in Ohio. Respondent shall make payments to the Ohio Department of Natural Resources ("ODNR") pursuant to the payment schedule specified in Order 7, resulting in a total amount of ten thousand two hundred and forty dollars (\$10,240). Payments shall be made to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for this purpose. The checks shall specify that such monies are to be deposited into Fund No. 509. The checks shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of the checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the above-stated address.

4. In lieu of payment of \$33,703 to Ohio EPA and pursuant to Order 8, Respondent shall perform a credit project consisting of the installation of a continuous opacity monitoring system (COMS) for emissions unit B001, which is certifiable pursuant to the method in Order 8 by no later than June 13, 2003. Respondent shall expend at least \$33,703 for this project, which shall include purchase costs, installation costs and initial certification costs. In the event that Respondent completes the COMS project at an expenditure of less than \$33,703, within one month of the completion of the COMS project, Respondent shall remit to Ohio EPA, in the same manner as described in Order 2, an amount equal to the difference between \$33,703 and the actual expenditure to Ohio EPA.

5. Respondent shall submit quarterly progress reports concerning the COMS project. The first report shall be due by January 15, 2003 for the fourth quarter of calendar year 2002, and the last report shall be due by July 15, 2003 for the second quarter of calendar year 2003.

6. After installation and certification of the COMS identified in Finding 4, Respondent shall operate and maintain the COMS thereafter in accordance with Order 8.

7. Respondent shall comply with the following payment schedule for the civil penalties identified in Orders 2 and 3:

<u>Payment Deadline</u>	<u>Amount Due</u>
September 1, 2002	\$500 (to ODNR)
October 1, 2002	\$500 (to ODNR)
November 1, 2002	\$500 (to ODNR)
December 1, 2002	\$1,000 (to ODNR)
January 1, 2003	\$2,500 (to ODNR)
February 1, 2003	\$2,500 (to ODNR)
March 1, 2003	\$1,000 (to ODNR)
April 1, 2003	\$500 (to ODNR)
May 1, 2003	\$500 (to ODNR)
June 1, 2003	\$500 (to ODNR)
July 1, 2003	\$500 (\$240 to ODNR, \$260 to Ohio EPA)
August 1, 2003	\$500 (to Ohio EPA)

September 1, 2003	\$500 (to Ohio EPA)
October 1, 2003	\$500 (to Ohio EPA)
November 1, 2003	\$500 (to Ohio EPA)
December 1, 2003	\$1,000 (to Ohio EPA)
January 1, 2004	\$2,500 (to Ohio EPA)
February 1, 2004	\$1,497 (to Ohio EPA)

8. Respondent shall perform the following activities and procedures required for the installation and operation of new COMS:

- a. Prior to the installation of the COMS, Respondent shall submit information detailing the proposed location of the sampling site in accordance with the siting requirements in 40 CFR, Part 60, Appendix B, Performance Specification 1 for approval by Ohio EPA.
- b. Within thirty (30) days of installation of the COMS pursuant to Order 4, Respondent shall conduct certification tests on the COMS pursuant to R.C. 3704.03(I) and 40 CFR, Part 60, Appendix B, Performance Specification 1. Personnel from the Ohio EPA and Akron RAQMD shall be notified thirty (30) days prior to initiation of the applicable tests and shall be permitted to examine equipment and witness the certification tests. Copies of the test results shall be submitted to Ohio EPA and Akron RAQMD pursuant to OAC rule 3745-15-04 within thirty (30) days after the test is completed. Certification of the COMS shall be granted upon determination by Ohio EPA that the system meets all requirements of R.C. 3704.03(I) and 40 CFR, Part 60, Appendix B, Performance Specification 1 (including section 5.1.9).
- c. The Respondent shall operate and maintain the COMS equipment to continuously monitor and record the opacity of the particulate emissions from this emissions unit. Such continuous monitoring and recording equipment shall comply with the requirements specified in 40 CFR, Part 60.13.
- d. The Respondent shall maintain records of all data obtained by the COMS including, but not limited to, percent opacity on an instantaneous (one-minute) basis, daily zero/span calibration checks, and manual calibration adjustments.
- e. Pursuant to 40 CFR, Parts 60.7 and 60.13(h), Respondent shall submit reports within thirty (30) days following the end of each calendar quarter to Akron RAQMD documenting all instances of opacity values in excess of the limitations specified in OAC Rule 3745-17-07, detailing the date, commencement and completion times, duration, magnitude (percent opacity), reason (if known), and corrective actions taken (if any) of each 6-minute block average above the applicable opacity limitation(s). The reports shall be submitted to Akron RAQMD in a format prescribed by the Director of Ohio EPA.

- f. The Respondent shall submit reports within thirty (30) days following the end of each calendar quarter to Akron RAQMD documenting any COMS downtime while the emissions unit was on line (date, time, duration and reason) along with any corrective action(s) taken. Respondent shall provide the emissions unit operating time during the reporting period and the date, time, reason and corrective action(s) taken for each time period of emissions unit and/or control equipment malfunction. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line shall be included in the quarterly report.

If there are no excess emissions during the calendar quarter, Respondent shall submit a statement to that effect along with the emissions unit operating time during the reporting period and the date, time, reason, and corrective action(s) taken for each time period of emissions unit, control equipment, and/or monitoring system malfunction. The total operating time of the emissions unit and the total operating time of the analyzer while the emissions unit was on line also shall be included in the quarterly report. These quarterly excess emission reports shall be submitted by January 30, April 30, July 30, and October 30 of each year and shall address the data obtained during the previous calendar quarter.

- g. Within one hundred eighty (180) days after the date of the certification of the COMS, Respondent shall develop a written quality assurance/quality control plan for the COMS designed to ensure continuous, valid and representative readings of opacity. The plan shall include, as a minimum, conducting and recording daily automatic zero/span checks, provisions for conducting a quarterly audit of the COMS, and a description of preventive maintenance activities. The plan shall describe step by step procedures for ensuring that sections 7.1.4, 7.4.1, 7.4.2, and Table 1-1 of Performance Specification 1 are maintained on a continuous basis. The quality assurance/quality control plan and a logbook dedicated to the COMS shall be kept on site and available for inspection during regular office hours.

VI. 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's facility.

VII. NOTICE

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

Akron Regional Air Quality Management District
146 South High Street
Akron, OH 44308
Attention: Frank Markunas

and to:

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

VIII. RESERVATION OF RIGHTS

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Respondent.

IX. MODIFICATIONS

These Orders may be modified by mutual 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.

X. SIGNATORIES

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 this document.

