

OHIO E.P.A.

APR -2 2001

BEFORE THE

ENTERED DIRECTOR'S JOURNAL

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

BP Oil Company
Toledo Refinery
4001 Cedar Point Road
Oregon, OH 43616

Director's Final
Findings and Orders

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Order ("Orders") are issued to BP Oil Company ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("RC") sections 3704.03 and 3745.01.

II. PARTIES

These Orders shall apply to and be binding upon Respondent, its assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in RC Chapters 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

1. Respondent owns and operates a petroleum refinery which is located at 4001 Cedar Point Road, in the City of Oregon, Ohio ("the Toledo Refinery") or "the refinery". The refinery has, among other sources, external floating roof storage tanks. The facility is identified by Ohio EPA as facility identification number 0448020007. Respondent's facility is a "major source" as defined in Ohio Administrative Code ("OAC") rule 3745-77-01(W).

2. On March 18, 1992, permit to install ("PTI") 04-708 was issued for emissions unit T163. On October 28, 1992, PTI 04-770 was issued for emissions units T166 and T167. On December 16, 1992, PTI 04-791 was issued for emissions units T168 and T169. The PTIs for emissions units T163, T166, T167, T168 and T169 specified, in part, that each tank must meet the design and operational requirements of the New Source Performance Standards ("NSPS") for the storage of petroleum liquids (Subpart Kb). BP installed and operated the aforementioned storage tanks with slotted guidepoles. The slotted guidepoles have gaps that can emit a wide variety of volatile organic compounds including benzene, toluene, xylene and ethyl benzene, which are hazardous air pollutants. These guidepoles do not comply with the "no visible gap" requirement specified in the NSPS Subpart Kb.
3. The following table summarizes the periods of noncompliance for the five storage tanks:

OEPA tank ID #	Date of Startup	Date(s) of Replacement
T163	November, 1992	August, 1997
T166	October, 1993	February, 1998
T167	October, 1993	December, 1997
T168	March, 1994	December, 1998
T169	July, 1994	January, 1999

Operation of the emissions units without controls for the slotted guidepoles constitutes violations of RC 3704.05(C).

4. OAC rule 3745-77-03(C)(9) requires that Respondent submit a Title V permit application that includes a description of the compliance status of the storage tanks with respect to the applicable requirements of the PTI, including the NSPS Subpart Kb. Respondent failed to submit a schedule and plan for achieving compliance with the NSPS when the original Title V permit application was submitted on September 19, 1996.

5. Operation of the emission units without controls on the slotted guidepoles resulted in emissions of volatile organic compounds in excess of the allowable emission rates specified in the above-referenced PTIs. Violations of the emission rates specified in the PTIs are violations of RC 3704.05(C).
6. On June 6, 2000, the Toledo Environmental Service Division (TESD) sent a Notice of Violation (NOV) to Respondent for the violations described in Findings 2 and 3. Respondent submitted a response to the NOV dated July 27, 2000 and indicated that as of February of 1999, all of the tanks at the refinery had achieved compliance with the applicable NSPS requirements.
7. 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

1. Respondent shall submit revised PTI applications for emissions units T163, T166, T167, T168 and T169 within ninety (90) days of the effective date of these Orders.
2. Pursuant to RC 3704.06, Respondent is assessed a civil penalty in the amount of thirty-six thousand dollars (\$36,000) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-eight thousand eight hundred dollars (\$28,800) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Vicki Galilei, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
122 S. Front Street
Columbus, OH 43216-1049

The remaining seven thousand two hundred dollars (\$7,200) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent

shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check 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 both checks shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Jim Orlemann, Manager
Engineering Section
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
122 S. Front Street
Columbus, OH 43216-1049

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.

VII. RESERVATION OF RIGHTS

Nothing contained herein prevents the 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 the seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein prevents the Ohio EPA from exercising its lawful authority to require Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that the Ohio EPA may seek to require of Respondent.

VIII. 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.

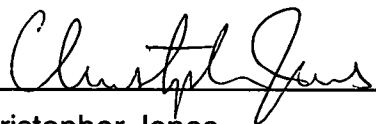
IX. WAIVER

In order to resolve disputed claims, without admissions of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these orders shall be a full accord and satisfaction for Respondent's liability for the specific violations cited herein. Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, the 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 an appeal. In such event, Respondent shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:


Ohio Environmental Protection Agency



Christopher Jones
Director

3-29-01
Date

IT IS SO AGREED:



BP Oil Company

2/23/01
Date