

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

MSC Pre Finish Metals, Inc.
2400 Yankee Road
Middletown, Ohio 45044

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:

Director's Final Findings
and Orders

ENTERED DIRECTOR'S JOURNAL

DEC 18 2001

OHIO E.P.A.

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to MSC Pre Finish Metals, Inc. ("MSC"), 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 MSC and its assigns and successors in interest liable under Ohio law.

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 the Ohio EPA has determined the following findings of fact:

1. MSC owns and operates a metal coating facility, located at 2400 Yankee Road, Middletown, Ohio (Ohio EPA facility identification number 1409000037). The facility includes a coil coating line that consists of two prime coaters and a bake oven controlled by an incinerator, and two finish coaters and a bake oven controlled by a second incinerator. This equipment is identified by Ohio EPA as "source K001."

2. Source K001 is a "source" of "air contaminants," as these terms are defined by Ohio Administrative Code ("OAC") Rule 3745-15-01(W) and (C), respectively. Source K001 emits volatile organic compounds ("VOC") as defined by OAC Rule 3745-21-01(B)(6).

3. Source K001 was installed and began operation prior to or during 1972. Permits to operate ("PTOs") were issued pursuant to OAC Rule 3745-35-02 for this source in three-year increments, with the latest PTO being issued to MSC on May 20, 1994 and expiring on May 19, 1997. MSC submitted a timely Title V permit application for its facility in accordance with OAC Rules 3745-77-02 and 3745-77-04. On March 23, 2001, Ohio EPA issued a final Title V Permit for the MSC facility.

4. The 1994 PTO Terms and Conditions required that MSC comply with OAC Rules 3745-21-04(C)(4)(b) and 3745-21-09(B)(6) by installing control equipment on K001 by April 1, 1995. OAC Rule 3745-21-04(C)(4)(b) states, in part, that an owner or operator of a coil coating line which employs a control system shall achieve compliance with either control requirements specified in OAC Rule 3745-21-09(B)(6) or the VOC emission limitation contained in OAC Rule 3745-21-09(E), in terms of pounds of VOC per gallon of solids, as expeditiously as possible but no later than April 1, 1995. MSC chose to comply with the control requirements of OAC Rule 3745-21-09(B)(6), which state that any owner or operator of a coating line that employs a control system may choose to demonstrate that the capture and control equipment provide not less than an eighty-one percent reduction, by weight, in the overall VOC emissions from the coating line and that the control equipment has an efficiency of not less than ninety percent, by weight, for the VOC emissions vented to the control equipment, when using non-complying coatings in the prime and finish coaters. When using low VOC content coatings in the line, MSC complies with the pounds of VOC per gallon of coating ("lbs/gal") limitation contained in paragraph (E), which limits the VOC content of coatings employed to 2.6 lbs/gal, in lieu of running the incinerator at the higher temperatures required to maintain the destruction efficiency. MSC employs two incinerators, one dedicated to the finish coaters and oven ("finish oven incinerator"), which was installed in 1972, and the other dedicated to the primary coaters and oven ("prime oven incinerator"), which was installed in 1995 to meet the requirements of OAC Rules 3745-21-04(C)(4)(b) and 3745-21-09(B)(6).

5. The 1994 PTO also required MSC to keep records in a daily log of the operating times for the capture system, control devices, monitoring equipment and the coating line. Also, MSC was required to keep records of all three-hour periods of operation during which the average combustion temperature of each incinerator was more than fifty degrees Fahrenheit ("F") below the average combustion temperature during the most recent stack test that demonstrated the source was in compliance. These records were also required to be kept pursuant to OAC Rule 3745-21-09(B)(3)(l)(i) and (ii). The most recent stack test for the prime oven incinerator was conducted on June 28, 1995, and demonstrated compliance (98.6 percent overall efficiency) at an average combustion temperature of 1,202 degrees F. The most recent stack test for the finish oven incinerator was conducted on February 8, 1996, and demonstrated compliance (94.6 percent overall efficiency) at an average combustion temperature of 1,201 degrees F.

6. Pursuant to OAC Rule 3745-21-09(B)(3)(m), MSC is required to submit to the Director quarterly summaries of the records required by OAC Rule 3745-21-09(B)(3)(l)(i) and (ii). These records are to consist of a log of operating times for the capture system, control device, monitoring

equipment, and associated coating line, and all three-hour periods of operation during which the average combustion temperature of each incinerator was more than fifty degrees F below the average combustion temperature during the most recent stack test that demonstrated the source was in compliance. These records are required to be submitted by April 30, July 31, October 31, and January 31, of each year, and are to cover the previous calendar quarter. MSC is also subject to R.C. 3704.05(A), (C) and (G) which state that no person shall violate any emission limitation adopted by the Director of Ohio EPA, nor any term and condition of a permit issued by, or any rule adopted by, the Director of Ohio EPA, respectively.

7. On November 11, 1998, MSC sent Hamilton County Department of Environmental Services ("HAMCO"), a contractual representative of Ohio EPA in Butler County, a letter describing circumstances surrounding the malfunction and repair of MSC's air pollution control devices. The letter stated that on October 15, 1998, MSC noticed that the natural gas valve that regulates the quantity of gas needed to maintain a set temperature in the prime oven incinerator was not functioning properly. The letter stated that until the problem was corrected on October 28, 1998, the combustion temperature in the incinerator fluctuated between 1,000 to 1,500 degrees F.

8. On December 3, 1998, HAMCO sent a letter of request to MSC regarding conditions at the time of the temperature excursion identified in Finding 7. The letter requested copies of the temperature charts for the prime oven incinerator and finish oven incinerator for K001 for the period when the temperature was below 1,200 degrees F, production records necessary to determine which coaters were operating, and the VOC contents of the coatings employed during the excursion event. On December 24, 1998, HAMCO received a response from MSC that included temperature charts and production records.

9. On January 5, 1999, a warning letter was sent by certified mail to MSC by HAMCO for the violations of OAC Rule 3745-21-09(E), the PTO terms and conditions, and R.C. 3704.05(C). HAMCO recognized from the temperature charts that MSC operated both the prime oven and finish oven incinerators at temperatures greater than 50 degrees F below the average combustion temperature during the most recent stack test that demonstrated the source was in compliance, when using noncomplying coatings. The letter requested a compliance plan and the VOC input during the excursion event. The attached Table 1 provides a tabular format of the production schedule and the corresponding incineration schedule and incinerator performance for this time period.

10. On January 22, 1999, MSC sent HAMCO a letter in response to the warning letter. MSC provided the VOC input for the prime oven and for the finish oven during the excursion event. MSC stated it had already addressed the problem of non-compliance caused by the drop in temperature, by replacing the natural gas valve for the prime oven incinerator, installing an audible alarm that sounds if the combustion temperatures in the incinerators fall below 1,150 degrees F, and retraining employees on the importance of maintaining proper operating temperatures.

11. MSC intermittently failed to maintain the proper operation of its control equipment from

September 29, 1998 to October 28, 1998 when combustion temperatures fell below the average combustion temperature during the most recent stack test that demonstrated compliance. The prime oven incinerator operated 50 degrees F below 1200 degrees F over this entire period, while the finish oven incinerator operated 50 degrees F below 1200 degrees F from late in the evening on October 10, 1998 through October 12, 1998. Table 2 provides three-hour averages of the incinerator temperatures during the malfunction periods associated with the prime and finish oven incinerators, which were estimated by Ohio EPA from MSC's temperature charts. As a result, MSC violated OAC Rule 3745-21-09(B)(6) by not maintaining a destruction efficiency of 90% during the excursion event. The attached Graph 1 shows that at or below approximately 1100 degrees F, the 90% destruction efficiency required is not achieved, and virtually no control is provided at incinerator temperatures below approximately 800 degrees F. (MSC has submitted information asserting that the ovens each provide approximately 50 percent VOC destruction, due to exhaust recycle to the burners, prior to reaching the incinerators.) Between September 29, 1998, and October 28, 1998, 94 three-hour averages (using non-overlapping three-hour averages) of incinerator temperatures in the prime oven incinerator, fell at or below 1100 degrees F, when incineration was required to maintain compliance. Between October 10, 1998 and October 12, 1998, 24 out of the 26 three-hour averages of incinerator temperatures in the finish oven incinerator, fell at or below 1100 degrees F, when incineration was required to maintain compliance. (See Table 2.) Also, the temperature charts indicate, as does Table 2, that numerous three-hour averages of incinerator temperatures in the prime oven incinerator and several three-hour averages for the finish oven incinerator, were below 800 degrees F, during the excursion event, when incineration was required to maintain compliance with OAC Rule 3745-21-09(B)(6). These violations also constitute violations of R.C. 3704.05(A), (C) and (G).

12. MSC did not calculate and record three-hour averages of incinerator temperatures during the excursion event, in violation of OAC Rule 3745-21-09(B)(3)(l) and R.C. 3704.05(C) and (G). Also, since July 31, 1995 (the date the first report was due after achieving compliance with OAC Rules 3745-21-04(C)(4)(b) and 3745-21-09(B)(6)), MSC failed to submit quarterly reports to HAMCO of the summaries of operating times and when combustion temperatures, during three-hour periods, fell below the average combustion temperature during the most recent stack test that demonstrated compliance, in violation of OAC Rule 3745-21-09(B)(3)(m) and R.C. 3704.05(G).

13. MSC violated OAC Rule 3745-15-06 and R.C. 3704.05(C) and (G) by not reporting malfunctions of the control equipment to Ohio EPA in writing until 30 days following the malfunction incidences (for a total of two months since the start of the malfunction incident) and not providing an estimate of the amount of VOC emissions during the malfunction event. MSC has indicated that it orally notified HAMCO of the incinerator malfunction within three days of the discovery of the malfunction.

14. The Director has given consideration to, and based on 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. MSC shall maintain compliance with the terms and conditions of any Title V permit issued by Ohio EPA for source K001.

2. Pursuant to R.C. 3704.06, MSC is assessed a civil penalty in the amount of fifty-seven thousand five hundred seventy-five dollars (\$57,575) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, MSC shall pay to Ohio EPA the amount of twenty-six thousand sixty dollars (\$26,060) 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
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

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

In lieu of payment to Ohio EPA of the remaining thirty-one thousand five hundred fifteen dollars (\$31,515) of the total penalty amount, MSC shall perform the supplemental environmentally beneficial projects identified in Orders 6 and 7. Of the \$31,515, \$20,000 shall be used to fund the project in Order 6 and \$11,515 shall be used to fund the project in Order 7. In the event MSC defaults or otherwise fails to complete the project as specified in Order 6, the \$20,000 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 Vicky Galilei at the above-stated address. A copy of the check shall be sent to James A. Orlemann, or his successor, at the above-stated address.

3. As outlined below, and with reference to the chapters described in Ohio EPA's 1993 "Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" (the Manual), MSC shall conduct a pollution prevention study ("P2 Study") at the facility. The P2 Study is an assessment of selected facility processes to identify and evaluate specific source reduction and environmentally sound recycling opportunities.

- a. Within ninety (90) days after the effective date of these Orders, MSC shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:
 - i. a list of the members of a cross-functional team for the P2 Study, including the name of a designated team leader;
 - ii. an identification of the processes selected for study and the methods used to select the processes; and
 - iii. a description of the processes being studied, including types and quantities of raw materials used, waste generated (i.e., air emissions, hazardous waste, solid waste, wastewater), and the intermediate or final products.

The above items shall be completed following the guidance provided in Chapters 8 and 9 of the Manual.

- b. Within one hundred eighty (180) days after the effective date of these Orders, MSC shall submit a detailed narrative report to Ohio EPA for review and approval containing the following:
 - i. an analysis of the process-related factors contributing to waste generation;
 - ii. a description of the specific pollution prevention opportunities identified; and
 - iii. a discussion of the approach used in screening and prioritizing pollution prevention opportunities for future implementation.

The above items shall be completed following the guidance provided in Chapters 11 and 12 of the Manual.

- c. Within two hundred seventy (270) days after the effective date of these Orders, MSC shall submit a detailed narrative final report to Ohio EPA for review and approval containing the following:
 - i. an evaluation of the cost considerations and feasibility analysis of the identified pollution prevention opportunities;
 - ii. a discussion of those projects that have been eliminated as well as those that have been implemented, planned for implementation, or under consideration for possible implementation; and

- iii. a description of the other items bulleted in Table 7 of Chapter 15 of the Manual.

The above items shall be completed following the guidance provided in Chapters 13, 14 and 15 of the Manual.

- d. Within three hundred and thirty (330) days after the effective date of these Orders, MSC shall submit an approvable detailed narrative final report to Ohio EPA, unless the report submitted to Ohio EPA pursuant to the above paragraph c is approved by Ohio EPA.

Ohio EPA shall provide MSC with its comments and an indication of approval or disapproval of the reports submitted pursuant to this Order in a timely manner.

4. MSC shall perform the supplemental environmentally beneficial project consisting of funding urban tree-planting projects in Ohio. Specifically, within thirty (30) days after the effective date of these Orders, MSC shall deliver a certified check made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for this purpose. 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 the check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the above-stated address.

5. Within thirty (30) days of the completion and approval by Ohio EPA of the project identified in Order 6, MSC shall submit documentation to Ohio EPA of the total cost of the P2 Study. If the total cost of the P2 Study is less than \$20,000, MSC shall submit along with the final report identified in Order 6 and in the manner described in Order 6, a certified check to Ohio EPA for the difference in cost between \$20,000 and the total cost of the P2 Study.

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 MSC's operation.

VII. NOTICE

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

Hamilton County Dept. of Environmental Services
Division of Air Pollution Control
250 William Howard Taft Road
Cincinnati, Ohio 45219
Attn: Gerald Fortson

and/or to:

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

VIII. 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 seeking penalties against MSC for the noncompliance with these Orders. Nothing contained herein prevents the Ohio EPA from exercising its lawful authority to require MSC to perform additional activities at the facility pursuant to RC Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of MSC to raise any administrative, legal, or equitable claim or defense with respect to such further actions that the Ohio EPA may seek to require from MSC.

IX. 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.

X. WAIVER

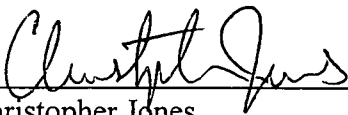
In order to resolve disputed claims, without admission of fact, violation or liability, MSC agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for MSC's civil liability for the specific violations cited herein. MSC hereby waives the right to appeal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

Notwithstanding the preceding, the Ohio EPA and MSC agree that if these Orders are

appealed by any other party to the Environmental Review Appeals Commission, or any court, MSC retains the right to intervene and participate in such an appeal. In such event, MSC 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

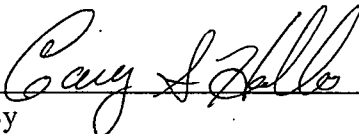


Christopher Jones
Director

12-13-01
Date

IT IS AGREED:

MSC Pre Finish Metals, Inc.



By
PLANT MANAGER

Title

11/30/01
Date