



John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Craig W. Butler, Director

October 13, 2016

**CERTIFIED MAIL**

William Cleland  
President  
5-C's Drying, LLC.  
9960 Rosedale Road  
Hicksville, Ohio 43526

Re: Final Findings and Orders for violations of  
Ohio's air pollution regulations

Dear Mr. Cleland:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

A handwritten signature in black ink, appearing to read "James Kavalec", is written over a horizontal line.

James Kavalec, Manager  
Compliance/Enforcement Section  
Division of Air Pollution Control

xc: James Lee, PIC  
Brandon Schwendeman, DAPC  
John Paulian, DAPC  
Lee Tullis, DAPC  
Steve Feldmann, Legal Office  
Jennifer Jolliff, DAPC-NWDO  
Mark Budge, DAPC-NWDO

OHIO E.P.A.

BEFORE THE

OCT 14 2016

ENTERED DIRECTOR'S JOURNAL

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

5-C's Drying, LLC  
9960 Rosedale Road  
Hicksville, Ohio 43526

:  
:  
:

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 5C's Drying, LLC ("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 Respondent or of the facility (as hereinafter defined) 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 makes the following findings:

1. Respondent owns and operates a food byproducts drying facility ("the facility") located at 9960 Rosedale Road, Hicksville, Defiance County, Ohio (facility ID: 0320002003). This facility is a true minor source.
2. The following emission units ("EUs") at the facility are the subject of these Orders and are subject to Ohio EPA rules and regulations.

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: John Kessler Date: 10-14-16

<b>EUs ID</b>	<b>Company Description</b>	<b>Date Installed</b>
P901	Sawdust Material Handling	09/01/2013
P902	Biofuel fired dryer system	09/01/2013

3. Ohio Administrative Code ("OAC") Rule 3745-17-11(B) applies to this facility and the allowable emissions of particulates is calculated using Table I based on the process weight rate.

4. ORC § 3704.05(C) prohibits any person who is a holder of a permit issued by the Director of Ohio EPA pursuant to ORC § 3704.03 from violating any of its terms and conditions.

5. ORC 3704.05(G) prohibits a person from violating any order, rule, or determination of the Director that was issued, adopted, or made under ORC Chapter 3704.

6. Permit to Install and Operate ("PTIO") # P0111913 was issued on March 11, 2013. The monitoring and recordkeeping requirements for EU P901 include performing daily checks of visible particulate emissions and maintaining a monthly record of the amount of sawdust loaded into the fuel dump hopper in tons.

7. PTIO # P0111913 requires that emissions from EU P902 be vented to a baghouse at all times the emissions unit is in operation. Emissions limitations include visible particulate emissions of not more than 5% opacity as a six-minute average from the stack. The monitoring and recordkeeping requirements for EU P901 include performing daily checks of visible particulate emissions. The testing requirements for EU P902 include conducting emissions testing within 180 days after achieving the maximum production rate to demonstrate compliance with hourly emission limitations for particulate matter ("PM10"), nitrogen oxides ("NOx"), carbon monoxide ("CO"), and volatile organic compounds ("VOC").

8. On September 1, 2013, the facility started operating. However, operation stopped from January 11, 2014 to August 18, 2014 due to a large fire at the facility.

9. After being notified of the fire, on May 13, 2014, Ohio EPA Northwest District Office ("NWDO") informed Respondent that emission testing needed to be completed within 30 days after resuming operation since testing by the PTIO deadline was not possible due to the fire incident.

10. On August 20, 2014, NWDO received a complaint concerning emissions from the facility. It was stated that the facility resumed operation on August 18, 2014, and EU P902 was being operated without control equipment.

11. On August 25, 2014, NWDO visited the facility and confirmed that the facility resumed operation and that EU P902 emissions were not vented to a baghouse, in violation of PTIO # P0111913 terms and conditions and ORC § 3704.05(C). NWDO discovered that Respondent ordered the wrong size baghouse and it was never installed.

12. On October 1, 2014, NWDO conducted a U.S. EPA Method 9 for EU P902's stack emissions. The six-minute opacity exceeded the 5% permit limit during the 24-minute observation period. Opacity, as a six-minute average ranged from 9% to 50%, in violation of PTIO # P0111913 terms and conditions and ORC § 3704.05(C). Respondent also failed to maintain records for daily visible fugitive emissions checks for EU P901, daily visible emissions checks for EU P902, and monthly records of the amount of sawdust loaded into the fuel dump hopper, in violation of PTIO # P0111913 terms and conditions and ORC § 3704.05(C).

13. On October 29, 2014, NWDO sent a notice of violation ("NOV") letter to Respondent for the violations discovered during the August 25, 2014 and October 1, 2014 inspections and for not completing the emission testing. The NOV required Respondent to submit a compliance plan and schedule.

14. Respondent's response to the NOV was received on December 5, 2014. The compliance plan included the following:

- Modify EU P902 so that natural gas or propane can be used as fuel in addition to sawdust to reduce opacity during start-up;
- Install baghouse for EU P902 by December 2014;
- Conduct emission testing by February 2015;
- Maintain records of the daily visible emissions checks; and
- Maintain records of the monthly and annual amount of sawdust loaded into the fuel dump hopper.

15. On January 9, 2015, NWDO requested an update from Respondent concerning the progress of its compliance plan including the installation of the baghouse and scheduling of the emission testing.

16. On February 12, 2015, Respondent informed NWDO that the baghouse they ordered was not the right size and Respondent would not operate EU P902 until a replacement baghouse was received. Respondent postponed the emission testing as a result of EU P902 shutdown.

17. On June 8, 2015, Respondent informed NWDO that they installed a different baghouse on EU P902 and operation of the emissions unit would not start until the emission testing was completed.

18. On April 18, 2016, NWDO requested updated information from Respondent concerning the operation status of the facility and the expected date for completion of the emission testing for EU P902.

19. On April 20, 2016, Respondent stated that during the winter months EU P902 was operated for short period of time, not for production but to maintain the unit functionally.

20. On May 11, 2016, NWDO visited the facility and discovered that a baghouse was not installed on EU P902 as was claimed by Respondent, in violation of PTIO # P0111913 terms and conditions and ORC § 3704.05(C). Operation of EU P902 was not allowed unless the baghouse was installed. The incorrectly sized baghouse was still located at the facility but not connected to EU P902.

21. On May 24, 2016, NWDO sent a NOV letter to Respondent and requested a compliance plan that included a time schedule for installing the baghouse and completing the emission testing. Respondent was also required to provide NWDO with the dates EU P902 operated.

22. On June 27, 2016, NWDO received Respondent's response to the NOV. It was stated that Respondent plans to replace EU P902 (biofuel fired dryer system) with a natural gas fired dryer system. Based on the production records received from Respondent, EU P902 operated for 9 days between April 12, 2016 and May 6, 2016. In addition, Respondent indicated that they operated in August and September of 2013, 2014, and 2015.

23. On July 15, 2016, NWDO received an application from Respondent to modify the PTIO permit for EU P901 and P902. Respondent requested reclassifying P901 as a de minimis source since Respondent intended to enclose the sawdust handling operation and the emissions are going to be minimal. Respondent also requested Ohio EPA to modify PTIO permit for EU P902 to remove the requirement to vent the unit's emissions to a baghouse and add the ability to co-fire the dryer using sawdust and natural gas.

24. On July 28, 2016, Respondent, its consultant, and legal counsel met with Ohio EPA and they requested that they be allowed to operate EU P902 without a baghouse for the 2016 season, that starts around the middle of August, until a determination is made as to whether a baghouse would be needed for EU P902 since it was being modified as referenced in Finding No. 23.

25. On August 1, 2016, Respondent provided Ohio EPA with the projected actual and potential emission calculations for EU P902 based on a fuel feed of 800 lbs/hr for the period of non-compliance. Based on Respondent's calculations, PTIO # P0111913

hourly emission rates will not be exceeded during the entire period.

26. 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. EU P902 shall not exceed 800 lb/hr of fuel feed during the operation of this emissions unit until such a time as a revised PTIO has been issued. If visible emissions exceed 40% opacity as determined by U.S. EPA Method 9 as conducted by a certified reader, Respondent shall immediately cease operations until corrective measures have been completed.

2. Within fifteen (15) days of the effective date of these Orders, Respondent shall submit an Intent-to-Test notification to Ohio EPA to test for PM, NO<sub>x</sub>, CO, and VOC emissions from the stack serving EU P902 at a point downstream from its cyclone.

3. Within thirty (30) days of the effective date of these Orders, Respondent shall perform stack testing for PM, NO<sub>x</sub>, CO, and VOC emissions from EU P902 at the near maximum operating rate. Respondent shall also perform U.S. EPA Method 9 observations for at least 30 minutes per test run during this stack test. The stack test and U.S. Method 9 shall be completed in accordance with the testing requirements of PTIO # P0111913 for EU P902 (section 2.f.). If the visible emissions exceed the 5% emission limit established in Respondent's permit, Respondent shall submit a plan to Ohio EPA, within seven (7) days, for how Respondent plans on reducing emissions and shall provide reasonable assurance of compliance with the maximum allowable PM emission limitation. The results of the stack test and U.S. EPA Method 9 observations may be used to develop emissions limitations that will be incorporated into a revised PTIO.

4. Within sixty (60) days of the effective date of these Orders, Respondent shall submit a report of the results of the stack testing identified in section V.3. to Ohio EPA, in accordance with Section X. If the emission rate of PM, NO<sub>x</sub>, CO, and/or VOC exceeds the limits established in Respondent's permit, Respondent shall submit a plan to Ohio EPA, within seventy (70) days of the effective date of these Orders, for how Respondent plans on bringing EU P902 into compliance with these limits or shall propose new limits based on the facility's current operations.

5. Within thirty (30) days of the effective date of these Orders, Respondent shall complete the change to EU P901 as referenced in Finding No. 23 of these Orders.

6. Within ninety (90) days of the effective date of these Orders, Respondent shall submit to Ohio EPA, a revised and complete permit application for EU P902 that accurately reflects the operations, a timeline for completion of all changes to EU P902, and a best available technology ("BAT") technical and cost effectiveness evaluation for applicable control systems for emissions unit P902 (Engineering Guide #89 may be used as the basis to determine the need for the BAT study).

7. Respondent shall pay the amount of twenty thousand dollars (\$20,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within ninety (90) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty thousand dollars (\$20,000). The official check shall be submitted to Carol Butler, 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

#### **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, all relevant obligations from the Orders have been embedded in operation permits, 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 as defined in OAC Rule 3745-31-04(B)(1) for a corporation, or a corporate officer who is in charge of a principal business function of Respondent.

#### **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, operations by Respondent.

#### **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 EPA  
Northwest District Office  
347 North Dunbridge Road  
Bowling Green, Ohio 43402  
Attn: Mark Budge

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Jim Kavalec, Manager  
Compliance and 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 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**

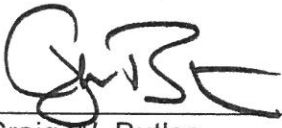
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

## **XIV. SIGNATORY AUTHORITY**

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

**ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**



\_\_\_\_\_  
Craig W. Butler  
Director

10/12/16

\_\_\_\_\_  
Date

**AGREED:**

**5C's Drying, LLC**

William A. Cleland Jr.

\_\_\_\_\_  
Signature

9/28/16

\_\_\_\_\_  
Date

William A. Cleland Jr.

\_\_\_\_\_  
Printed or Typed Name

Pres

\_\_\_\_\_  
Title