

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.  
NOV 28 2007

DIRECTOR'S JOURNAL

In the Matter of:

Spectrum Dispersions, Inc.	:	<u>Director's Final Findings</u>
225 W. Lake Street	:	<u>and Orders</u>
Ravenna, Ohio 44266	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Spectrum Dispersions, Inc. ("Respondent") pursuant to the authority vested in the Director of 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 the Respondent or of the facility (as identified hereafter) 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 regulations promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a facility located at 225 W. Lake Street, Ravenna, Portage County, Ohio, and is identified by Ohio EPA facility identification number 1667060140. At the facility, Respondent manufactures colored dispersion coatings by blending pigments, solvents and other raw materials.

2. At the facility, Respondent employs 16 high speed mixers identified by Ohio EPA as emissions units P001, P003, P005 through P010, P012 through P014, P016, P018, P020, P021 and P023. Also, Respondent employs eight (8) sand mills identified by Ohio EPA as emissions units P002, P004, P011, P015, P017, P019, P022 and P024.

3. Emissions units P001 through P024 emit, in part, organic compounds ("OCs"), volatile organic compounds ("VOCs"), and hazardous air pollutants ("HAPs"), as defined in OAC Rules 3745-21-01(B)(4), 3745-21-01(B)(6) and 3745-77-01(V), respectively; and each unit is an "air contaminant source," as defined in OAC Rules 3745-31-01(I) and 3745-15-01(C) and (W). Further, as of October 17, 2006, Respondent's entire facility is classified as a "synthetic minor source," as defined in OAC Rule 3745-77-01(II).

4. ORC § 3704.05(G) states, in part, that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704.

5. OAC Rule 3745-31-02 states, in part, that, no person shall allow the installation or modification of an air contaminant source without first applying for and obtaining a permit to install ("PTI") from the Director of Ohio EPA, unless otherwise specified by rule or law.

6. OAC Rule 3745-77-02(A) prohibits any owner or operator of a Title V source from operating such source after the date that a timely and complete Title V permit application is required to be submitted pursuant to OAC Rule 3745-77-04, except in compliance with a Title V permit issued under OAC Chapter 3745-77.

7. A "Title V source," as defined in OAC Rule 3745-77-01(LL), means any source subject to the permitting requirements of OAC Chapter 3745-77, as provided in OAC Rule 3745-77-02. OAC Rule 3745-77-02, in part, provides that any "major source," as defined in OAC Rule 3745-77-01(W), is subject to the permitting requirements under OAC Chapter 3745-77 unless otherwise exempted by rule or law.

8. A "major source," as defined in OAC Rule 3745-77-01(W), means any "stationary source," as defined in OAC Rule 3745-77-01(W)(2), or group of stationary sources that are located on one or more contiguous or adjacent properties and under common ownership and belong to the same major source industrial grouping. Furthermore, a major source includes a stationary source that, in part, emits or has the potential to emit ("PTE"), in the aggregate, 10 tons per year ("TPY") or more of any hazardous air pollutant ("HAP"), or 25 TPY or more any combination of HAPs.

9. OAC Rule 3745-77-04(D) states, in part, the owner or operator is required to submit a Title V permit application within twelve months after the source becomes subject to the Title V permit program. OAC Rule 3745-78-02(A) states, in part, the owner or operator of a Title V source must submit annual Title V fee emission reports ("FERs") to Ohio EPA by April 15 of each year for the previous calendar year.

10. In a letter dated March 6, 2006, Respondent voluntarily submitted applications for PTIs and PTOs for emissions units P001 through P019. On May 18, 2006, ARAQMD received applications for emissions units P020 through P024. The applications were submitted in order to obtain Title V synthetic minor permit status and avoid the requirements of 40 CFR, Part 63, Subpart HHHHH, after Respondent discovered that its PTE for at least HAPs exceeded Title V permit thresholds. The March 6, 2006 submittal contained an analysis of actual and potential emissions of VOCs and HAPs. The reported PTEs for VOCs, individual highest HAP (toluene), and total HAPs were 80.792 TPY, 17.654 TPY, and 17.654 TPY, respectively. The reported actual emissions of VOCs, individual highest HAP, and total HAPs were 8.553 TPY, 2.760 TPY, and 2.834 TPY, respectively.

11. On August 8, 2006, Akron Regional Air Quality Management District ("ARAQMD"), Ohio EPA's contractual representative in Portage County, sent a Notice of Violation ("NOV") letter to the Respondent to bring attention to its failure to obtain PTIs and PTOs for emissions units P001 through P024, which were installed and began operation in 1998, in violation of OAC Rules 3745-31-02(A) and 3745-35-02(A). The letter also requested the Respondent to submit a complete analysis of the facility emissions from the time when the facility began operations through December 2005. Additionally, the NOV informed Respondent that the facility was in violation for its failure to apply for a Title V permit within one year of becoming subject to the Title V program and for operating a Title V source after that deadline without a Title V permit or a timely filed Title V permit application. Respondent was requested to submit a response to the August 8, 2006 NOV by no later than August 21, 2006, including a plan and schedule for filing past due FERs and a schedule for submitting applicable permit applications.

12. The NOV also required the Respondent to submit an analysis of the potential and actual emissions of HAPs. The NOV noted that methyl ethyl ketone ("MEK") was considered a HAP until December of 2005. On August 24, 2006, ARAQMD received coating usage records from Respondent in response to the August 8, 2006 NOV letter. According to the coating usage records, the facility had a total of 4.141 TPY of actual emissions of MEK in 2005.

13. Since the PTE for the individual highest HAP emission exceeded 10 TPY and the majority of the emissions units at the facility were installed and began operation in or about December 1997 through 1998, Ohio EPA finds that Respondent's facility was a major source of individual HAP emissions and a Title V source and was, therefore, subject to the requirements of OAC Chapters 3745-77 and 3745-78. Respondent failed to file a Title V permit application within one year of becoming subject to Title V requirements (i.e., by December 1998) and operated a Title V source after December 1998 without a timely filed Title V permit application or possessing a Title V permit, in violation of OAC Rules 3745-77-02(A) and 3745-77-04(D). Furthermore, Respondent failed to file Title V FERs since April 15, 1999, for calendar year 1998, to calendar year 2005, in violation of OAC Rule 3745-78-02(A).

14. Beginning in December 1997 through June 2003, Respondent installed emissions units P001 through P024. Respondent failed to apply for and obtain a PTI for emissions units P001 through P024, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G). On March 7, 2006, Respondent submitted PTI and PTO applications for emissions units P001 through P024.

The installation dates for the emissions units are showed in the following table.

Emissions Unit	Type	Installation Date
P001	Mixer S# 12	2/98
P002	Mill SM# 32	12/97
P003	Mixer S# 2	12/97
P004	Mill SM# 31	12/97
P005	Mixer S# 11	12/97
P006	Mixer S# 6	12/97
P007	Mixer S# 7	12/97
P008	Mixer S# 20	12/97
P008	Mixer S# 20	1/03
P009	Mixer S# 14	5/98
P010	Mixer S# 15	7/99
P011	Mill SM# 40	7/98
P012	Mixer S# 21	6/03
P013	Mixer S# 19	4/02
P014	Mixer S# 5	12/97
P015	Mill SM# 34	12/97
P016	Mixer S# 9	12/97
P017	Mill SM# 35	12/97
P018	Mixer S# 13	12/97
P019	Mill SM# 36	12/97
P020	Mixer S# 3	12/97
P021	Mixer S# 1	2/98

P022	Mill SM# 33	2/98
P023	Mixer S# 18	12/97
P024	Mill SM# 37	12/97

15. The PTI application # 16-02442 was reviewed by ARAQMD and Ohio EPA and issued final by Ohio EPA on October 17, 2006.

16. Ohio EPA issued PTOs for emissions units P001 through P024 on April 20, 2007.

17. Based on the above findings, Ohio EPA finds that Respondent violated the following OAC rules and ORC laws:

a. Installation of emissions units P001 through P024 between 1997 and 2003 without first applying for and obtaining a PTI, in violation of OAC Rule 3745-31-02 and ORC § 3704.05(G).

b. Operating a Title V source after December 1998 without a Title V permit or a timely filed Title V permit application, in violation of OAC Rule 3745-77-02(A) and ORC § 3704.05(G) and (K).

c. Failing to file Title V FERs for calendar years 1998 through 2005, in violation of OAC Rule 3745-78-02(A) and ORC § 3704.05(G) and (J)(2).

d. Failure to submit a Title V permit application from December 1998 to October 17, 2006, in violation of OAC Rule 3745-77-04(D) and ORC § 3704.05(G) and (J)(2).

18. 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. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of seventy-eight thousand dollars (\$78,000) in settlement of Ohio EPA's claims for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of sixty-two thousand and four hundred dollars (\$62,400) of the total penalty amount. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$62,400. The official check shall be submitted to Brenda Case, 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

A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. With the remaining fifteen thousand and six hundred dollars (\$15,600) of civil penalty, Respondent shall fund a supplemental environmental project by making a contribution in the amount of fifteen thousand and six hundred dollars (\$15,600) to Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall make payment within thirty (30) days after the effective date of these Orders by an official check made payable to "Treasurer, State of Ohio" for \$15,600. The official check shall specify that such monies are to be deposited into the fund established by Ohio EPA for the Clean Diesel School Bus Program. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to the above-stated address. A copy of this check also shall be sent to James A. Orlemann, or his successor, at the above-stated address.

3. Within sixty (60) days after the effective date of these Orders and pursuant to OAC Rule 3745-78-02(A), Respondent shall submit complete and approvable Title V FERs to Ohio EPA for calendar years 1998 through 2005, and shall pay Title V fees within the prescribed time period after receipt of invoices from Ohio EPA.

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

## **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. 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:

Akron Regional Air Quality Management District  
146 South High Street, Room 904  
Akron, Ohio 44308  
Attention: Duane LaClair, Environmental Specialist

and to:

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

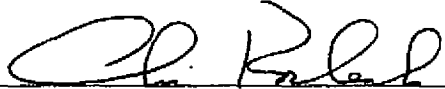
### **XIV. SIGNATORY AUTHORITY**

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.



**IT IS SO ORDERED AND AGREED:**

Ohio Environmental Protection Agency

  
Chris Korleski  
Director

11/26/07  
Date

**IT IS SO AGREED:**

Spectrum Dispersions, Inc.

  
Signature 10/29/07  
Date

GARY E. KLEMM  
Printed or Typed Name

PRESIDENT  
Title