

OHIO E.P.A.

DEC 20 2012

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY ENTERED DIRECTOR'S JOURNAL

In the Matter of:

OMNOVA Solutions, Inc. : Director's Final Findings
165 S. Cleveland Ave. : and Orders
Mogadore, Ohio 44260 :

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to OMNOVA Solutions, Inc. ("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 Respondent's 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 facility (Facility ID# 1667000007) located at 165 S. Cleveland Avenue, Mogadore, Summit County, Ohio ("Facility"). The Facility manufactures performance chemicals used as binders, coatings, adhesives and additives for the paper, carpeting, construction, nonwovens, tire cord, tape and label, in-mold coating, floor care, and textile markets.

2. Akron Regional Air Quality Management District ("ARAQMD") is the contractual agent for Ohio EPA in Summit County for the administration of Ohio's air pollution control rules and laws.

3. On April 27, 2009, Ohio EPA issued permit-to-install and operate ("PTIO") P0101911 to Respondent. The terms and conditions of PTIO P0101911 contain applicable emission limitations and operational control and reporting requirements for emissions units ("EUs") P004 (poly/degas process), P013 (wastewater effluent system), P014 (butadiene distillation column), P101 (pilot plant latex 30's), P103 (pilot plant latex strippers), P105 (pilot plant acrylic latex), P106 (pilot plant in-mold coatings), P110 (pilot plant polymerization process #1), and P115 (pilot plant polymerization process #6). Respondent has also obtained permit-by-rules ("PBRs") for EUs B022 (Onan electric generator), B023 (Waukesha diesel firefighting water pump), and B024 (Cummins diesel firefighting water pump). The EUs listed in PTIO P0101911 and the PBRs are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (X).

4. PTIO P0101911 requires emissions from EUs P004, P013, P014, P101, P103, P105, P106, P110, and P115 to be vented to a thermal oxidizer ("TO") whose average combustion temperature, during any 3-hour period of time when any of the emissions units controlled by the TO are in operation, not be less than 1,451 degrees Fahrenheit. PTIO P0101911 also requires Respondent to install, operate and maintain a continuous temperature monitor and recorder that measures and records the combustion temperatures within the TO when any of the EUs are in operation. Furthermore, the TO is equipped with a continuous emissions monitoring system ("CEMS") which, per PTIO P0101911, is required to maintain a minimum 95% data capture efficiency. PTIO P0101911 also requires the permittee to submit quarterly deviation reports, per calendar quarter, that identify: each 3-hour period of time when the average combustion chamber temperature within the TO was less than 1,451 degrees Fahrenheit; any period of time when the EUs were in operation and the process emissions were not vented to the TO; all exceedances of the rolling, 12-month emissions limitation for OC, individual HAPs, styrene, and combined HAPS; the cause of each deviation; corrective actions taken; and the magnitude and duration of each deviation.

5. On February 1, 2010, after reviewing Respondent's excess emission reports for the 2nd and 3rd quarters of 2009, ARAQMD notified Respondent that it had failed to capture 95 percent of the OC emissions data from the CEMS for each of these calendar quarters, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C).

6. By letters dated February 18 and October 12, 2010, Respondent submitted responses to ARAQMD's February 1, 2010 letter. In these letters, Respondent explained that the sample bundle, which is used to route stack gases from the TO stack to the total hydrocarbon analyzer, was bad, had to be replaced, and that Respondent also purchased a spare sample bundle. Also, Respondent had to send the total hydrocarbon analyzer back to the manufacturer twice because it was defective. Lastly, Respondent indicated that the TO was equipped with an electronic data logger to replace the chart recorder as of April 20, 2010. The new data logger would continuously monitor and record the temperature of the TO combustion chamber.

7. On August 19, 2010, Respondent conducted a Relative Accuracy Test Audit ("RATA") on the CEMS. On October 18, 2010, the final report for the RATA was submitted to Ohio EPA. By letter dated October 28, 2010, Ohio EPA approved the report and certification testing.

8. On February 17, 2011, ARAQMD conducted an inspection at the Facility and determined that Respondent had:

a. Failed to capture at least 95 percent of the data from the CEMS, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C). Specifically, for 36 days between June 15, 2009 and July 21, 2009; 44 days between August 3, 2009 and September 16, 2009; 32 days between February 26, 2010 and March 30, 2010; and 46 days between September 10, 2010 and October 26, 2010, Respondent failed to maintain at least a 95 percent data capture. Subsequently, Respondent disclosed and ARAQMD confirmed an additional period of 72 days, from March 4, 2012 until May 15, 2012, when Respondent failed to maintain at least 95% data capture;

b. From at least April 27, 2009 until April 19, 2010, ~357 days, Respondent failed to record the combustion temperatures within the TO because the chart recorder was inoperable, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C);

c. On February 17, 2011, Respondent failed to make combustion records available at the time of the inspection, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C). During the inspection, the data logger system was unable to pull recent or past temperature strip data;

d. From April 27, 2009 until March 15, 2011, ~687 days, Respondent failed to record the downtime of the strip chart temperature recorder, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C);

e. From April 27, 2009 until March 15, 2011, ~687 days, Respondent failed to properly maintain monthly hazardous air pollutant ("HAP") records, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C). Respondent had all the necessary data but was reporting only annual emissions and not keeping monthly records of the rolling, 12-month summation of the total facility emissions for each individual HAP and combined HAPs.

f. Failed to properly record the required information when a leaking valve was detected on EU P004, in violation of the terms and conditions of PTIO P0101911 and ORC § 3704.05(C). On March 29, 2010 and November 29, 2010, a leaking valve was found on EU P004 but Respondent failed to properly record all the necessary information listed in PTIO P0101911;

g. For EUs B022, B023, and B024, from June of 2006 until the March 15, 2011, Respondent failed to maintain monthly records of the rolling 12-month hours of operation, in violation of OAC Rule 3745-31-03(A)(4) and ORC § 3704.05(C); and

h. From October 1, 1999, the date that Respondent took over ownership of the company, until the present, ~ 4,627 days, Respondent failed to submit PTIO applications and obtain operating permits for two high-pressure water jetting units powered by diesel engines and from December 15, 2000 until present ~ 4,186 days, Respondent failed to submit PTIO applications and obtain operating permits for another high-pressure water jetting unit powered by diesel engines, (EUs TMP167637, TMP167638, and TMP167639), in violation of OAC Rules 3745-31-02 and former 3745-35-02, and ORC § 3704.05(G).

9. By letter dated March 1, 2011, ARAQMD notified Respondent of the violations referenced in Finding No. 8 of these Orders, except for Finding No. 8.c. By letter dated March 15, 2011, Respondent submitted a response to ARAQMD's notice of violation letter dated March 1, 2011.

10. 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. Respondent shall pay the amount of sixty thousand dollars (\$60,000) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3704. Within thirty (30) 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 forty-eight thousand dollars (\$48,000) of the total amount. 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
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining twelve thousand dollars (\$12,000) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$12,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD0). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for \$12,000. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to Bruce Weinberg, Environmental Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order 2, Respondent shall immediately pay to Ohio EPA \$12,000 of the civil penalty in accordance with the procedures in Order 1.

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, 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:

Akron Regional Air Quality Management District
146 South High Street, Room 904
Akron, Ohio 44308
Attn: Sam Rubens

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Bruce Weinberg

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



Scott J. Nally
Director

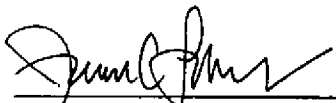
12/17/12

Date

AGREED:

OMNOVA Solutions, Inc.

*REN
OK
SAB*



Signature

12.10.2012

Date

James C. Lemay

Printed or Typed Name

Gr. Vice President Corporate

Title Development and General Counsel