

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

INEOS Pigments USA, Inc.	:	<u>Director's Final Findings</u>
Ashtabula Complex Plant 1	:	<u>and Orders</u>
2900 Middle Road	:	
Ashtabula, Ohio 44004	:	

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to INEOS Pigments USA, 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 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:

- Respondent produces titanium dioxide and titanium chemicals at its Ashtabula Complex Plant 1 facility (Facility ID#0204010200) located at 2900 Middle Road, in Ashtabula, Ohio (Ashtabula County). At this facility, among other emissions units ("EUs"), Respondent operates the B Train titanium tetrachloride production process (EU P006). The current Title V Permit-to-Operate ("TVPTO") P0126106 for this facility was issued on August 11, 2020 and has the expiration date of August 11, 2025.

- ORC § 3704.05(C) and (J) 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.

3. ORC § 3704.05(G) states that no person shall violate any order, rule, or determination of the Director issued, adopted, or made under ORC Chapter 3704. Ohio Administrative Code ("OAC") Rule 3745-21-25 was adopted by the Director pursuant to ORC Chapter 3704.

4. OAC Rules 3745-31-10 and 3745-31-20, 40 CFR Part 52, Section 52.21, and the terms and conditions of TVPTO P0126106 require that EU Poo6 shall not exceed 4.5 pounds per hour for H<sub>2</sub>SO<sub>4</sub> when this EU is in operation.

5. On June 30, 2023, Respondent submitted to Ohio EPA, Northeast District Office ("NEDO") the May 3, 2023 EU Poo6 stack test report which showed that the results of the test to be 5.18 pounds per hour which exceeded the 4.5 pounds per hour limit for H<sub>2</sub>SO<sub>4</sub>, in violation of the TVPTO P0126106, OAC Rules 3745-31-10 and 3745-31-20, an 40 CFR Part 52, Section 52.21, and ORC § 3704.05(C), (G) and (J).

6. On July 25, 2023, NEDO issued Respondent a notice of violation ("NOV") letter for the violations outlined in Finding #5.

7. On August 14 and 31, 2023, Respondent submitted a response to the July 25, 2023 NOV letter stating that the violations were due to the malfunction of the O<sub>2</sub> analyzers. Respondent indicated that the defective analyzers were repaired and corrected during the week of August 7, 2023, and submitted an Intent-to-Test ("ITT") for H<sub>2</sub>SO<sub>4</sub> emissions from EU Poo6 on September 19, 2023.

8. Respondent communicated with NEDO on August 15 and 21, 2023, and September 1, 2023, indicating additional time was required to make repairs to ensure the O<sub>2</sub> analyzers were working properly and the September 19, 2023 test was cancelled.

9. On December 15, 2023, Respondent conducted a re-test for H<sub>2</sub>SO<sub>4</sub> emissions from EU Poo6. Based on the review of the test results, on February 27, 2024, NEDO-DAPC concluded that Respondent passed the re-test for H<sub>2</sub>SO<sub>4</sub> emissions concerning EU Poo6.

10. The Director has given consideration to, and based her 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 Order:

Respondent shall pay the amount of twenty-nine thousand five hundred dollars (\$29,500) 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" twenty-nine thousand five hundred dollars (\$29,500). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying 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 upon Ohio EPA's receipt of the official check 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 Respondents pursuant to these Orders shall be addressed to:

Ohio EPA- Northeast District Office  
Division of Air Pollution Control  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Attention: Tim Fischer, Manager

and to:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Josh Koch, 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 Respondents 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**

*Anne M Vogel*

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Anne M. Vogel  
Director

\_\_\_\_\_  
Date

**AGREED:**

**INEOS Pigments USA, Inc.**

*Jeet Dawdy*

\_\_\_\_\_  
Signature

*4/10/24*

\_\_\_\_\_  
Date

*Jeet Dawdy*

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

*Ops Director*

\_\_\_\_\_  
Title