

MAY 15 2009

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Owens-Brockway Glass Container Inc.)
Streator, Illinois)
)
Proceeding Under Sections)
113(a)(1) and 114(a)(1) of)
the Clean Air Act, 42 U.S.C.)
§§ 7413(a)(1) and 7414(a)(1))

Administrative Consent Order

EPA-5-09-113(a)-03-IL

CAA-05-2009-0020

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MAY 15 2009

REGIONAL HEARING CLERK
U.S. ENVIRONMENTAL
PROTECTION AGENCY

Administrative Consent Order

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (EPA), Region 5, is issuing this Order to Owens-Brockway Glass Container Inc. (Owens-Brockway) under Sections 113(a)(1) and 114(a)(1) of the Clean Air Act (Act), 42 U.S.C. §§ 7413(a)(1) and 7414(a)(1).

Statutory and Regulatory Background

2. Each state must submit to the Administrator of EPA a plan for attaining and maintaining the National Ambient Air Quality Standards under Section 110 of the Act, 42 U.S.C. § 7410.
3. On February 21, 1980, EPA approved, as part of the Federally enforceable State Implementation Plan (SIP) for Illinois, 35 Ill. Admin. Code § 212.321. 45 Fed. Reg. 11493. This rule became effective February 21, 1980.
4. 35 Ill. Adm. Code § 212.321(a) limits particulate matter (PM) emissions during any one hour period from a process emission unit, for which construction or modification commenced on or after April 14, 1972, to rates of less than those computed by the equation $E = A(P)^B$, where E is the allowable emission rate (lbs/hour), P is the process weight rate (tons/hour), and A and B are constants of 2.54 and 0.534, respectively.
5. Title V of the Act, 42 U.S.C. §§ 7661a-7661f, establishes an operating permit program for certain sources, including "major sources." Pursuant to Section 502(b) of the Act, 42 U.S.C. § 7661a(b), on July 21, 1992, EPA promulgated regulations establishing the minimum elements of a permit program to be administered by any air pollution control agency. 57 Fed. Reg. 32295. These regulations are codified at 40 C.F.R. Part 70.
6. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the Act, no source subject to Title V may operate except in compliance with a Title V permit.

7. EPA granted interim approval to Illinois' Clean Air Act Permit Program (CAAPP) with an effective date of March 7, 1995. *See* 40 C.F.R. Part 70, Appendix A. EPA granted final approval effective on November 30, 2001. *See* 40 C.F.R. Part 70, Appendix A.

8. Under Section 113(a) of the Act, 42 U.S.C. § 7413(a), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating a SIP and/or Title V of the Act. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

9. The Administrator of EPA may require any person who owns or operates an emission source under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1) to install, use and maintain monitoring equipment and submit reports. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

10. Owens-Brockway owns and operates a glass container manufacturing facility at 901 North Shabbona Street, Streator, Illinois 61364.

11. On July 11, 2001, the Illinois Environmental Protection Agency (IEPA) issued to Owens-Brockway, Construction Permit Number 01020067, for the addition of electric boost on Glass Melting Furnace H. Condition 2.3.b., which incorporates Illinois SIP provision 35 Ill. Adm. Code § 212.321(a), limits PM emissions during any one hour period from Furnace H to rates of less than those computed by the equation $E = A(P)^B$, where E is the allowable emission rate, P is the process weight rate, and A and B are unit-less constants of value 2.54 and 0.534, respectively.

12. On December 23, 2002, IEPA issued Title V Clean Air Act Permit Program (CAAPP) Permit 95090064 (Title V Permit) to Owens-Brockway. This permit covers several air emission sources, including the glass melting furnace, Furnace H.

13. Condition 7.3.3.c. of Owens-Brockway's Title V CAAPP Permit incorporates the Illinois SIP provision 35 Ill. Adm. Code § 212.321(a) as detailed above in Paragraph 11.

14. Owens-Brockway owns or operates an "emission source" within the meaning of Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). Therefore, Owens-Brockway is subject to the requirements of Section 114(a)(1).

15. Based on the results of PM stack tests conducted at Furnace H on September 14, 2005 and October 4, 2005, EPA issued to Owens-Brockway a Notice and Finding of Violation (NOV/FOV) on March 13, 2007 alleging that Owens-Brockway violated its CAAPP Title V permit, Section 502 of the Act, 40 C.F.R. § 70.7(b), Construction Permit 01020067, and the Illinois SIP at 35 Ill Admin Code § 212.321(a), by failing to maintain compliance with the allowable PM emission rate determined by the methodology detailed in Paragraph 11, above.

16. On April 17, 2007, representatives of Owens-Brockway and EPA met and discussed the March 13, 2007 NOV/FOV.

17. EPA alleges that Owens-Brockway violated its CAAPP Title V permit, Section 502 of the Act, 40 C.F.R. § 70.7(b), Construction Permit 01020067, and the Illinois SIP at 35 Ill. Admin. Code § 212.321(a). Although Owens-Brockway agrees to the terms of this Order, and admits all jurisdictional allegations, Owens-Brockway neither admits nor denies the factual allegations in this Order.

Compliance Program

18. Except as noted in Paragraphs 19 through 21, Owens-Brockway will operate Furnace H according to the following Electric Boost and Glass Pull-rate Schedule, as a means of suppressing PM emissions:

Electric Boost and Glass Pull-rate Schedule

Daily* Average Glass Pull-Rate (tons/day)	Daily* Average Minimum Electric Boost (KW/day)
70 or lower	0
71 – 230	400
231 – 240	450
241 – 250	625
251 – 260	750
261 – 270	875
271 – 280	1,000
281 – 290	1,125
291 or greater	1,250

* For purposes of this agreement and reporting as required by Paragraph 22, “daily” is defined as the consecutive 24 hour period beginning at 6 a.m. until 6 a.m. of the next calendar day, which is the schedule utilized by Owens-Brockway’s computerized system that tracks and records the glass pull rate and electric boost usage for Furnace H.

19. Owens-Brockway will not be required to operate Furnace H with a minimum average electric boost while the furnace is operating at glass pull-rates of 70 tons/day or lower (considered to be operating at hot idle), as the use of the electric boost at these low pull-rates may damage the furnace refractory.

20. For worker safety purposes, Owens-Brockway will not be required to operate Furnace H with a minimum average electric boost while maintenance to the electric boost system is being performed or while other maintenance activities, due to proximity to the electric boost system, may pose a safety risk. Such maintenance activities are not expected to exceed eight days per year.

21. In the case of circumstances beyond the control of Owens-Brockway, during which Owens-Brockway is unable to operate Furnace H according to the schedule in Paragraph 18, above, Owens-Brockway will notify EPA as provided in Paragraph 25, below, within 24 hours of

the onset of such circumstances. Within 14 days of the onset of such circumstances, Owens-Brockway will provide EPA with a written report that explains the circumstances. Owens-Brockway must take all reasonable actions to avoid or minimize delay in following the Schedule in Paragraph 18. Owens-Brockway has the burden of proving that circumstances beyond its control prevented it from operating Furnace H in accordance with Paragraph 18.

22. Owens-Brockway shall submit to EPA on a quarterly basis, beginning with the 3rd calendar quarter of 2009 (July, August and September) monthly Electric Boost and Glass Pull-rate reports for Furnace H that indicate the daily average electric boost (in KW), daily average glass pull-rate (in tons/day), notations that identify days of maintenance activity pursuant to Paragraph 20 and reasons for any deviations from the minimum average electric boost levels established in Paragraph 18. Each quarterly report is due to the EPA 30 days after the end of the respective calendar quarter.

23. Owens-Brockway shall notify EPA of an anticipated hot idle of Furnace H at least two days prior to this lowered production mode (glass pull-rate of 70 tons/day or lower).

24. Within 60 days of the effective date of this Order, Owens-Brockway will submit a permit amendment application to the Illinois EPA to include the Electric Boost and Glass Pull-rate Schedule in Paragraph 18, above, including the exceptions and provisions set forth in Paragraphs 19 – 23, above, and will send a copy of the application to EPA at the address provided in Paragraph 25, below. The permit amendment application shall require the reporting and notice submissions set forth in paragraphs 21 -23, above, to be submitted to the appropriate office at the Illinois EPA. Two years after the effective date of this Order, upon its expiration, all further reporting and notice submissions shall be submitted only to Illinois EPA.

25. Owens-Brockway must send all reports required by this Order to:

Attention: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Owens-Brockway must e-mail notices required by Paragraphs 21 and 23 of this Order to:

Daniel Schaufelberger of EPA Region 5 (schaufelberger.daniel@epamail.epa.gov)

General Provisions

26. This Order does not affect Owens-Brockway's responsibility to comply with other local, state, and Federal laws and regulations.

27. This Order does not restrict EPA's authority to enforce the Illinois SIP, or any section of the Act.

28. Nothing in this Order limits EPA's authority to seek appropriate relief, including penalties under Section 113 of the Act, 42 U.S.C. § 7413, for Owens-Brockway's violation of the Illinois SIP or Title V of the Act.

29. Failure to comply with this Order may subject Owens-Brockway to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413 and 40 C.F.R. Part 19.

30. The terms of this Order are binding on Owens-Brockway, its assignees and successors. Owens-Brockway must give notice of this Order to any successors in interest, prior to transferring ownership, and must simultaneously verify to EPA, at the above address, that Owens-Brockway has given the notice.

31. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation. To aid in our electronic record keeping efforts, please provide your response to this Order without staples. Paper clips, binder clips, and 3-ring binders are acceptable.

32. EPA may use any information submitted under this Order in an administrative, civil or criminal action.

33. Owens-Brockway agrees to the terms of this Order.

34. Each person signing this Order certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

35. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate two years from the effective date, provided that Owens-Brockway has complied with all terms of the Order throughout its duration.

5/5/09
Date

Kenneth P. Sokol
Kenneth P. Sokol, Streator Plant Manager
Owens-Brockway Glass Container Inc.

RECEIVED
MAY 15 2009

05/13/09
Date

Cheryl L. Newton
Cheryl L. Newton, Director
Air and Radiation Division

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