



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 09 2006

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Richard Blommer
Vice President
Blommer Chocolate
600 W. Kinzie
Chicago, Illinois 60610-3977

Re: Blommer Chocolate
Chicago, Illinois
Administrative Consent Order

Dear Mr. Blommer:

Enclosed is an executed original of an Administrative Consent Order regarding the above captioned case.

If you have any questions regarding this Order, please contact Cathleen Martwick, Associate Regional Counsel, at 312-886-4670 or Monica Onyszko, Environmental Engineer, at 312-353-5139.

Sincerely yours,

Sara Dauk

for Brent Marable, Chief
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Julie Armitage, Acting Manager
Compliance and Enforcement Section Bureau of Air
Illinois Environmental Protection Agency

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Blommer Chocolate) Administrative Consent Order
Chicago, Illinois)
) EPA-5-06-113(a)-1-IL
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

1. The Director of the Air and Radiation Division, United States Environmental Protection Agency (U.S. EPA), Region 5, is issuing this Administrative Consent Order (Order) to Blommer Chocolate (Blommer), located at 600 W. Kinzie, Chicago, Illinois, under Section 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. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to the U.S. EPA for approval, State Implementation Plans (SIPs) providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by U.S. EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. U.S. EPA has promulgated NAAQS for, among other pollutants, particulate matter.
3. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.
4. U.S. EPA approved Title 35 of the Illinois Administrative Code (35 IAC) § 212.123, governing visible emissions, as part of the Illinois SIP on December 29, 1992. 57 Fed. Reg. 61834, 61837.

5. 35 IAC § 212.123 provides an opacity limitation of 30 percent, applicable to certain emission sources. The rule includes an exception which allows for the emission of smoke with opacity greater than 30 percent, but less than 60 percent for a period totaling 8 minutes in a 60 minute period. This exception is limited to one emission source per facility within a 1000 foot radius, and only applies three times in a 24 hour period.
6. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of U.S. EPA may issue an order requiring compliance to any person who has violated or is violating a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.
7. The Administrator of U.S. EPA may require any person who owns or operates an emission source to "establish and maintain records; make reports; and provide information required by the Administrator" under Section 114(a)(1) of the Act, 42 U.S.C. § 7414(a)(1). The Administrator has delegated this authority to the Director of the Air and Radiation Division.

Findings

8. Blommer is located at 600 W. Kinzie, Chicago, Illinois.
9. Blommer owns and operates a facility that manufactures chocolate products, including chocolate liquor, cocoa butter, and cocoa powder, for bulk sale to other companies.
10. Blommer operated eleven cocoa nib grinders, with emissions venting to the northeast corner of the facility roof. Blommer received a revised Lifetime Operating Permit from the Illinois Environmental Protection Agency (IEPA) on December 6, 2005 that grants permission to operate fourteen grinders controlled by five filter boxes.
11. Blommer 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, Blommer is subject to the requirements of Section 114(a)(1).
12. Emissions at Blommer are subject to the opacity limit set forth in the Illinois SIP regulations found at 35 IAC § 212.123.

13. U.S. EPA alleges that on September 1, 2005 and September 2, 2005, a U.S. EPA certified Method 9 inspector (inspector) observed emissions at Blommer exceeding 30 percent opacity, but less than 60 percent, for more than an aggregate of 8 minutes in a 60 minute period from one emission source, in violation of 35 IAC § 212.123.
14. U.S. EPA alleges that an inspection performed at Blommer by U.S. EPA representatives on September 23, 2005 determined the source of the visible emissions to be the grinders.
15. On October 25, 2005 U.S. EPA issued to Blommer a Notice of Violation (NOV) for allegedly exceeding opacity limits resulting from grinding operations.
16. On November 15, 2005 representatives of Blommer and U.S. EPA met to discuss the NOV issued October 25, 2005.

Compliance Program

17. Blommer has been issued a revised Lifetime Operating Permit by the IEPA that includes the installation of five filter boxes to be used as pollution control devices for the fourteen grinders at the facility.
18. Within 30 days after the date this Order becomes effective, Blommer will operate the five filter boxes pursuant to the guidelines listed in the revised Lifetime Operating Permit and in a manner that minimizes grinder emissions.
19. The five filter boxes will be maintained according to manufacturer's recommendations. This includes filter replacement when the filters are used to capacity or design life is exceeded, whichever is first. Filter maintenance records will be kept for one year at the facility.
20. Within 60 days after the date this Order becomes effective, Blommer will conduct visible emission observations with a certified inspector in accordance with U.S. EPA Method 9, 40 C.F.R. Part 60, Appendix A on the grinder stack while the grinding equipment is operating at maximum capacity. The results will be submitted to U.S. EPA Region 5 within 30 days of performing the Method 9 readings. Visible emission records will be kept at the facility for one year.
21. No sooner than six (6) months, but no later than ten (10) months after the emission readings are conducted pursuant to paragraph 20 above, Blommer will again conduct visible emission observations with a certified inspector in

accordance with U.S. EPA Method 9, 40 C.F.R. Part 60, Appendix A on the grinder stack while the grinding equipment is operating at maximum capacity during a seasonal peak production period. The results will be submitted to U.S. EPA Region 5 within 30 days of performing the Method 9 readings. Visible emission records will be kept at the facility for one year.

22. If the filter boxes fail to achieve compliance with visible emission opacity levels as set forth in 35 IAC § 212.123, based upon the visible emission observations conducted pursuant to paragraphs 20 and 21 above, Blommer will modify the filter boxes or take other appropriate measures such as replacing the filter boxes with pollution control equipment that will allow the facility to comply within 90 days after visible emissions observations indicate noncompliance with 35 IAC § 212.123. Within 10 days of modifying or replacing the filter boxes, Blommer will conduct visible emission observations with a certified inspector under the same operating conditions set forth in paragraph 20 above to demonstrate compliance with the opacity levels set forth in 35 IAC § 212.123. The results will be submitted to U.S. EPA Region 5 within 30 days of performing the Method 9 readings. Visible emission readings will be kept at the facility for one year.
23. Blommer shall send all information required by this Order to:

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

General Provisions

24. This Order does not affect Blommer's responsibility to comply with other local, state and federal laws and regulations.
25. This Order does not restrict U.S. EPA's authority to enforce the Illinois SIP or any section of the Act.
26. Blommer's completion of the Compliance Program set forth in paragraphs 17 through 23 above does not affect Blommer's responsibility to comply with the Illinois SIP or any section of the Act.

27. Blommer's completion of the Compliance Program set forth in paragraphs 17 through 23 above will relieve Blommer of the responsibility for payment of penalties for alleged violations set forth in the NOV issued October 25, 2005, including the time period during which Blommer is making good faith efforts to complete the Compliance Program set forth in paragraphs 17 through 23 above.
28. Nothing in this Order limits U.S. EPA's authority to seek other appropriate relief, under Section 113 of the Act, 42 U.S.C. § 7413, for Blommer's violation of the Illinois SIP.
29. By entering into this Order, Blommer does not admit any liability with regard to the NOV issued on October 25, 2005.
30. Failure to comply with this Order may subject Blommer to penalties of up to \$32,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 69 Fed. Reg. 7121 (Feb. 13, 2004) (Amending 40 C.F.R. Part 19).
31. The terms of this Order are binding on Blommer, its assignees and successors. During this Order's effective period, Blommer must give notice of this Order, to any successors in interest, prior to transferring ownership, and must simultaneously verify to U.S. EPA, at the above address, that Blommer has given the notice.
32. 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.
33. U.S. EPA may use any information submitted under this Order in an administrative, civil or criminal action.
34. Blommer agrees to the terms of this Order.
35. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that Blommer has complied with all terms of the Order throughout its duration.

CERTIFICATE OF MAILING

I, Betty Williams, certify that I sent an Administrative Consent Order, No. EPA-5-06-113(a)-1-IL, by Certified Mail, Return Receipt Requested, to:

Richard Blommer
Blommer Chocolate
600 W. Kinzie
Chicago, Illinois 60610-3977

I also certify that I sent a copy of the Administrative Consent Order, No. EPA-5-06-113(a)-1-IL, by First Class Mail to:

Julie Armitage, Acting Manager
Compliance and Enforcement Section Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62702

on the 9th day of March 2006.


Betty Williams, Secretary
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER: 70010320 0006 1455 111 9