

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:)
)
Darling International, Inc.) **Administrative Consent Order**
)
) **EPA-5-99-113(a) OH-04**
Proceeding Pursuant to)
Section 113(a)(1)(A))
of the Clean Air Act,)
42 U.S.C. § 7413(a)(1)(A))
_____)

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 Order pursuant to Section 113(a)(1)(A) of the Clean Air Act (Act), 42 U.S.C. § 7413(a)(1)(A).

Statutory and Regulatory Background

2. Section 110 of the Act, 42 U.S.C. § 7410, requires each State to submit to the Administrator of U.S. EPA a plan for attaining and maintaining the National Ambient Air Quality Standards.
3. On August 13, 1984, U.S. EPA approved the Ohio air pollution nuisance rule, Ohio Administrative Code (OAC) 3745-15-07, as part of the federally enforceable State Implementation Plan (SIP) for Ohio. 49 Fed. Reg. 31181, effective October 12, 1984. On June 10, 1982, U.S. EPA approved the permit to operate rules, OAC 3745-35, as part of the federally enforceable SIP for Ohio. 47 Fed. Reg. 25144. On September 18, 1974, U.S. EPA promulgated 40 C.F.R. § 52.23. 39 Fed. Reg. 33512, as amended at 54 Fed. Reg. 27285 (June 28, 1989).
4. OAC 3745-15-07 prohibits the emission or escape into the open air from any source or sources whatsoever, of smoke, ashes, dirt, grime, acids, fumes, gases, vapors, odors, or any other substances or combinations of substances, in such manner or in such quantity as to endanger the health, safety or welfare of the public, or cause unreasonable damage to property. The regulation defines such emissions to be a public nuisance, and states that it is unlawful for any

person to cause, permit, or maintain any such public nuisance. Sources that are subject to regulation under, among other rules, OAC 3745-31 (permit to install rules) of the Ohio Administrative Code are subject to OAC 3745-15-07.

5. OAC 3745-35 requires the owner or operator of an air emissions unit apply for and obtain a permit to operate. The Director of the Ohio Environmental Protection Agency may specify terms and conditions for a permit to operate.
6. 40 C.F.R. § 52.23 provides, in relevant part, that the failure to comply with any approved regulatory provision of a SIP or with any permit limitation or condition contained within an operating permit issued under an EPA-approved program that is incorporated into the SIP shall render the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under Section 113 of the Clean Air Act, 42 U.S.C. § 7413.
7. Section 113(a)(1)(A) of the Act, 42 U.S.C. § 7413(a)(1)(A), authorizes the Administrator of U.S. EPA to issue an order requiring compliance with a SIP to any person who has violated or is in violation of the SIP. The Administrator has delegated the authority to issue these orders to the Director of the Air and Radiation Division.

Findings

8. Darling International, Inc. (Darling), owns and operates an inedible animal rendering plant located at 3275 West 65th Street, Cleveland, Ohio. In or about March 1989, Darling purchased the facility from A.W. Stadler, Inc. (A.W. Stadler).
9. On November 15, 1984, A.W. Stadler applied for a permit to install, as required under OAC 3745-31, for a 50,000-pound per hour rendering cooker (hereinafter, "the rendering cooker") prior to commencing installation of said rendering cooker. The Ohio Environmental Protection Agency (Ohio EPA) designated the rendering cooker as Ohio EPA air emissions unit number 1318001620 P001. Therefore, Darling is subject to the Ohio air pollution nuisance rule at OAC 3745-15-07.
10. On August 15, 1997, and August 17, 1998, U.S. EPA issued to Darling Notices of Violation alleging that Darling violated the Ohio air pollution nuisance rule by emitting malodorous volatile organic compounds into the open air from the

rendering cooker and other process equipment at the facility in such manner or in such quantity as to endanger the health, safety or welfare of the public, or cause unreasonable damage to property.

11. On September 10, 1997, June 11, 1998, and October 8, 1998, representatives of Darling and U.S. EPA held conferences to discuss the August 15, 1997, and August 17, 1998, Notices of Violation.
12. After a review of the information that Darling provided to the U.S. EPA and after a thorough investigation of all relevant facts, the U.S. EPA has determined that the following requirements are reasonable.

Therefore, it is hereby ordered that:

Compliance Program

13. By the effective date of this Order, Darling shall achieve, demonstrate and maintain compliance with the Ohio air pollution nuisance rule and the terms and conditions of a permit to operate that the Ohio EPA issued to the facility at its facility located at 3275 West 65th Street, Cleveland, Ohio, as specified in this Consent Order.
14. The U.S. EPA finds that Darling's agreement to discontinue rendering animal offals, which ceased operations on or about September 5, 1998, is a valid method of compliance with the OAC 3745-15-07 and the terms and conditions of a permit issued by the Ohio EPA pursuant to OAC 3745-35.
15. Darling shall not operate the rendering cooker at its Cleveland facility after the effective date of this Order, except in accordance with the terms of this Order.
16. Darling shall not resume operation of the rendering cooker until Darling applies for and obtains all applicable permits from the City of Cleveland, the Ohio EPA, and the U.S. EPA. Darling agrees that the Permit to Install that the Ohio EPA issued to A.W. Stadler, Inc., on February 21, 1985, is not a permit that Darling can rely upon to resume operation of the rendering cooker and that new permits must be applied for and received before resuming operation of the cooker operations referenced above. Darling shall not resume operation of the rendering cooker until Darling has installed pollution and odor control technology meeting the requirements specified by the City of Cleveland and the Ohio

EPA under applicable law.

17. By its signature on this Order, Darling certifies that ceasing operation the rendering cooker at its Cleveland facility will not cause a substantial increase in the amount of animal offals that Darling will render at its facility in Melvindale, Michigan.

General Provisions

18. This Order does not affect Darling's responsibility to comply with other local, State, and federal laws and regulations.
19. Except as expressly provided for herein, nothing in this Order shall be construed as a waiver by U.S. EPA of any rights or remedies under the Act. U.S. EPA reserves the right to seek appropriate relief, including penalties, under Sections 113(b) and (d) of the Act, 42 U.S.C. §§ 7413(b) and (d), and any other applicable sections of the Act, for Darling's violations.
20. Nothing in this Order shall be construed to restrict U.S. EPA's authority under Section 114 of the Act, 42 U.S.C. § 7414.
21. Darling's compliance with this Order shall resolve all violations alleged in the August 15, 1997, and August 17, 1998, Notices of Violation, prior to the effective date of this Order. The U.S. EPA shall not commence any action, administrative or civil, or seek any relief of any kind, for the alleged violations referenced in the preceding sentence, provided, however, that nothing herein shall preclude the U.S. EPA from enforcing the terms of this Order or, if the Order is violated, seeking administrative or civil penalties for violations of this Order and the underlying violations in accordance with Section 113 of the Act, 42 U.S.C. § 7413.
22. Failure to comply with this Order may subject Darling to penalties of up to \$27,500 per day for each violation pursuant to Section 113(b) of the Act, 42 U.S.C. § 7413(b).
23. The provisions of this Order shall apply to and be binding upon Darling, its officers, directors, agents, servants, employees, assignees and any successors in interest. Darling shall give notice of this Order to any successors in interest, prior to transfer of ownership, and shall simultaneously verify to the U.S. EPA, at the following

address, that Darling has given the notice.

George Czerniak, Chief
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
77 W. Jackson Blvd., AE-17J
Chicago, IL 60604

- 24. This request 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.
- 25. The U.S. EPA may use any information collected pursuant to this Order in support of an administrative, civil or criminal action against Darling.
- 26. Darling does not admit to any allegation contained in the August 15, 1997, or August 17, 1998, Notices of Violation or to having violated any federal, State or local law, and Darling's execution of this Order shall not constitute any such admission.
- 27. Darling agrees to the terms of this Order.
- 28. This Order is effective on the date of signature by the Director of the Air and Radiation Division. With the exception of the requirement to apply for and obtain all applicable permits, this Order will expire one year from the effective date, provided that Darling has complied with all of its terms.

Nov. 11, 1999
Date

Neil Katchen
Neil Katchen, Vice President, Eastern Region
Darling International, Inc.

12/3/99
Date

Margaret M. Guerriero
Margaret M. Guerriero, Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, do hereby certify that an Administrative Order pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Neil Katchen, Vice President
Eastern Region
Darling International, Inc.
27240 Haggerty Road, Suite E-15
Farmington Hills, Michigan 48331

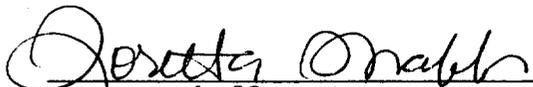
Re: Administrative Order to Darling International, Inc.

I, Loretta Shaffer, certify that a copy of the Administrative Order Pursuant to the Clean Air Act was sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
1600 WaterMark Drive
Columbus, Ohio 43215

Mark Vilem, Project Coordinator
Cleveland Division of Air Pollution Control
1925 St. Clair Avenue
Cleveland, Ohio 44114

on the 8th day of December, 1999



Loretta Shaffer, Secretary

2 199 026 536
Certified Mail Article Number