



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

SEP 23 2009

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Monica Rimai, Interim Director
University of Cincinnati
Two Edwards Center, Room 2310
51 West Corry Street ML 0218
Cincinnati, Ohio 43616

Dear Ms. Rimai:

Enclosed is your copy of the signed Administrative Consent Order (ACO) which resolves the Notice and Finding of Violation issued to University of Cincinnati on September 6, 2006.

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 the University of Cincinnati has complied with all terms of the Order throughout its duration. Failure to comply with this Order may subject the University of Cincinnati to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

Please direct any questions regarding this Order to Sabrina Argentieri, Associate Regional Counsel, at (312) 353-5485, or Julie Morris, of my staff, at (312) 886-0863.

Sincerely yours,

A handwritten signature in cursive script that reads "William MacDowell".

William MacDowell, Chief
Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure

cc: Robert Brubaker
Porter Wright Morris & Arthur LLP

Robert Hodanbosi
Ohio Environmental Protection Agency

Cory Chadwick
Hamilton County Environmental Services

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

In the Matter of:)	EPA-5-09-113(a)-OH-17
)	
University of Cincinnati)	Proceeding Under Sections 113(a)(1)
Cincinnati, Ohio)	of the Clean Air Act
)	42 U.S.C. §§ 7413(a)(1)
)	
)	
)	
)	

Administrative Consent Order

1. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency Region 5, is issuing this Administrative Consent Order to the University of Cincinnati 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 January 22, 2003, EPA approved OAC 3745-31-02 as part of the federally enforceable Ohio State Implementation Plan (SIP). 68 Fed. Reg. 2909 (effective March 10, 2003).

4. OAC 3745-31-02, provides, among other things, that no person shall cause, permit, or allow the installation of a new source of air pollutants or cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit to install from the director.

5. On January 22, 2003, EPA approved OAC 3745-31-05(A)(3) as part of the federally enforceable Ohio SIP. 68 Fed. Reg. 2909 (effective March 10, 2003).

6. OAC 3745-31-05(A)(3) provides, among other things, that the director shall issue a permit to install or plan approval if he determines that the installation or modification and operation of the air contaminant source will employ the best available technology.

7. On May 27, 1994, EPA approved OAC 3745-17-07(A)(l) as part of the federally enforceable Ohio SIP. 59 Fed. Reg. 27464 (effective June 27, 1994).

8. OAC 3745-17-07(A)(l)(a) requires that visible particulate emissions from any stack shall not exceed twenty percent opacity, as a six-minute average. The visible particulate emissions from any stack may exceed 20% opacity, as a six-minute average, for not more than six consecutive minutes in any sixty minutes, but shall not exceed 60% opacity, as a six-minute average, at any time.

9. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(l), the Administrator of 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.

Findings

10. The University of Cincinnati owns and operates one coal-fired boiler (Boiler B108) at 3220 Eden Avenue, Cincinnati, Ohio, and two natural gas-fired turbines (Turbines P003 and P004) at 3001 Vine Street, Cincinnati, Ohio.

11. Ohio EPA issued to the University of Cincinnati Permit to Install (PTI) No. 14-05108 on August 15, 2002, and modified it on August 25, 2005, for P003 and P004, in accordance with OAC 3745-31-02 and OAC 3745-31-05 of the Ohio SIP.

12. On June 20, 2001, Ohio EPA issued to the University of Cincinnati a final Title V permit numbered 14-31-07-0849, with an effective date of June 20, 2001 (Title V Permit No. 14-31-07-0849).

13. On September 6, 2006, EPA issued to the University of Cincinnati a Notice and Finding of Violation (NOV/FOV) alleging that it exceeded its opacity emission limitation for Boiler B108 and its NO_x, and CO emission limitations for P003 and P004 in violation of Section 502(a) of the Act, 42 U.S.C. § 7661a, 40 CFR § 70.7(b), OAC 3745-17-07, Title V Permit No. 14-31-07-0849, and PTI No. 14-05108.

14. On December 5, 2006, representatives of the University of Cincinnati and EPA discussed the September 6, 2006, NOV/FOV.

15. The Director of the Air and Radiation Division, U.S. Environmental Protection Agency Region 5 finds that the University of Cincinnati violated Section 502(a) of the Act, 42 U.S.C. §7661a, 40 CFR § 70.7(b), OAC 3745-17-07, Title V Permit No. 14-31-07-0849, and PTI No. 14-05108. The University of Cincinnati consents to this Administrative Consent Order without any admission of fact or law.

16. On October 5, 2007, the University of Cincinnati installed a dual range/span Continuous Emission Monitor (CEM) for P003 and P004 to further quantify startup emissions.

17. On June 12, 2008, Ohio EPA modified PTI No. 14-05108 with PTI No. 14-05950 for Turbines P003 and P004 to account for startup and shut down emissions.

18. On February 15, 2008, Ohio EPA notified EPA that the University of Cincinnati submitted notification that P003 and P004 would be idled on January 12, 2008, for an indefinite period of time.

Compliance Program

19. By the effective date of this Order, the University of Cincinnati must achieve, demonstrate, and maintain continuous compliance with the terms of its Title V Permit No. 14-31-07-0849 and PTI No. 14-05950.

20. The University of Cincinnati must operate and maintain the dual range/span CO CEM monitor for P003 and P004 to continuously monitor and record CO in units of the applicable standard, in accordance with the terms of Part III(A)(III) of PTI No. 14-05950.

21. During the effective period of this Order, the University of Cincinnati must provide copies of quarterly excess emission reports for B108, P003, and P004 in accordance with the terms of Part III(A)(IV) in its Title V Permit No. 14-31-07-0849 and Part III(A)(IV) of PTI No. 14-05950.

22. During the effective period of this Order, the University of Cincinnati must provide copies of annual reports which specify the total NO_x, SO₂, PM and CO emissions for B108, P003, and P004 for the previous calendar year in accordance with the terms of Part III(A)(IV) in its Title V Permit No. 14-31-07-0849 and Part III(A)(IV) of PTI No. 14-05950.

23. The University of Cincinnati 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

General Provisions

24. This Order does not affect the University of Cincinnati's responsibility to comply with other federal, state, and local laws.

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

26. Nothing in this Order limits the EPA's authority to seek appropriate relief, including penalties, under Section 113 of the Act, 42 U.S.C. § 7413, for the University of Cincinnati's violation of the Ohio SIP.

27. Failure to comply with this Order may subject the University of Cincinnati to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413.

28. The terms of this Order are binding on the University of Cincinnati, its assignees and successors. The University of Cincinnati 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 it has given the notice.

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

30. The University of Cincinnati agrees to the terms of this Order.

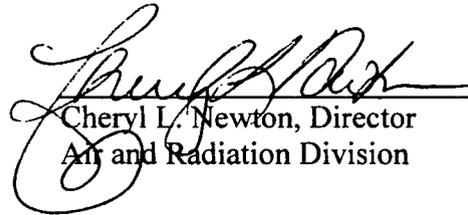
31. This Order is effective on the date of signature by the Director of the Air and Radiation Division. This Order will terminate one year from the effective date, provided that the University of Cincinnati has complied with all terms of the Order throughout its duration.

Sept 9, 2009
Date


Jan Utrecht, Director
The University of Cincinnati

Monica Rimal
Interim President

9/23/09
Date


Cheryl L. Newton, Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent the Administrative Order on Consent, EPA
Order No. EPA-5-08-113(a)-OH-17, by Certified Mail, Return Receipt Requested, to:

Monica Rimai, Interim Director
University of Cincinnati
Two Edwards Center, Room 2310
51 West Corry Street ML 0218
Cincinnati, Ohio 43616

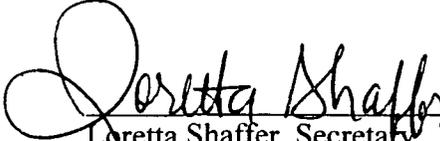
I also certify that I sent a copy of the Administrative Order on Consent, EPA
Order No. EPA-5-08-113(a)-OH-17, by First Class Mail to:

Robert Brubaker
Porter Wright Morris & Arthur LLP
41 South High Street
Suites 2800-3200
Columbus, Ohio 43215-6194

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Cory Chadwick, Director
Hamilton County Environmental Services
Air Quality Programs
250 William Taft Road
Cincinnati, Ohio 45219

on the 23 day of Sept 2009.



Loretta Shaffer, Secretary
AECAS (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0192 1574