

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

United Ready Mix : Director's Final Findings
1971 Carter Road : and Orders
Cleveland, Ohio 44113 :

OHIO E.P.A.

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PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to United Ready Mix ("United"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under sections 3704.03 and 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES

These Orders shall apply to and be binding upon United and its officers, directors, agents, servants, employees, assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in Chapter 3704 of the ORC and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of the Ohio EPA has determined the following findings of fact:

1. The Clean Air Act Amendments ("CAAA") of 1990 required that each State, which contained any nonattainment area for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (commonly denoted as "PM-10"), submit by November 15, 1991 a State Implementation Plan ("SIP")

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By: Wanda Glenn Date 7-12-95

to the U.S. Environmental Protection Agency ("U.S. EPA"). The SIP must provide for the achievement and maintenance of the National Ambient Air Quality Standards ("NAAQS") for PM-10 by the applicable deadline (1994). Furthermore, Section 172(c)(9) of the CAAA requires that the SIP provide for contingency measures which would be undertaken if the specific nonattainment area fails to make reasonable further progress or fails to attain the primary NAAQS by the attainment date. Such contingency measures were to take effect without further action by the State or the U.S. EPA.

2. The U.S. EPA identified Cuyahoga County and portions of Jefferson County as nonattainment areas for PM-10. On November 14, 1991, the Ohio EPA submitted a PM-10 SIP to the U.S. EPA which included revisions to the Ohio Administrative Code ("OAC") Chapter 3745-17 (concerning particulate matter).

3. The revisions to OAC Chapter 3745-17 include new OAC rule 3745-17-14 which contains the PM-10 contingency measure requirements for certain facilities that impact the PM-10 nonattainment areas. Paragraph (A) of this rule requires that by April 1, 1992 the facilities submit control strategies and compliance schedules to the Ohio EPA which would reduce particulate emissions from the baseline levels identified in paragraph (A)(3) of OAC rule 3745-17-14 by 15 or 25 percent.

4. Pursuant to paragraph (B) of OAC rule 3745-17-14, the control strategies and compliance schedules submitted in accordance with paragraph (A) of OAC rule 3745-17-14 must be approved by the Director of the Ohio EPA through the issuance of Findings and Orders, as authorized by Division (R) of section 3704.03 of the ORC. Also, the Findings and Orders must be submitted to and approved by the U.S. EPA as a revision to the Ohio SIP for PM-10.

5. Pursuant to paragraph (C) of OAC rule 3745-17-14, the requirements of the Findings and Orders are to be implemented by each facility upon receipt of a formal determination and notification by the Ohio EPA or the U.S. EPA that the area is not in compliance with the NAAQS.

6. United is located at 1971 Carter Road, Cleveland, Ohio in Cuyahoga County and manufactures premixed concrete. (The previous operator was Harval, Inc.) This facility is identified by Ohio EPA premise number 1318005960. This facility is subject to the requirements of OAC rule 3745-17-14 which specify that the total, required particulate emission reductions for this facility, at the maximum operating rates, are 1.1 pounds per hour at the fifteen (15) percent reduction level and 1.8 pounds per hour at the twenty-five (25) percent reduction level.

7. On November 20, 1992, United submitted control

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By: Wickie Blaw Date 7-12-95

strategies to the Ohio EPA, partially fulfilling the requirements of paragraph (A) of OAC rule 3745-17-14. The control strategy for the affected air contaminant source at the facility is as follows:

a. for the fifteen (15) percent reduction level.

The control plans involve source F002 (limestone and sand storage piles). The control plans consist of installing a water spray nozzle system to keep source F002 wet, as needed, to reduce fugitive dust emissions. Use of the water spray system will reduce uncontrolled emissions by 95%, resulting in a reduction of 1.12 pounds per hour of particulate matter.

b. for the twenty-five (25) percent reduction level.

The control plans involve source F002. The control plans consist of installing a water spray nozzle system to keep source F002 wet as needed to reduce fugitive dust emissions. Use of the water spray system will reduce uncontrolled emissions by 95%, resulting in a reduction of 1.12 pounds per hour of particulate matter. Further reductions are not available since a 95% reduction has been proposed for source F002. (Sources F001 and F003 have 95% and 98% control, respectively, and no further reductions are technically feasible for these sources.)

8. The Ohio EPA finds that the control strategy identified in Finding 7 partially satisfies the requirements of OAC rule 3745-17-14, and that further reductions to fully satisfy the requirements are not feasible.

9. The Director has given consideration to, and based his 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 makes the following Orders:

1. Upon the determination by Ohio EPA or the USEPA and upon written notification from the Ohio EPA to United in accordance with OAC rule 3745-17-04 that contingency measures must be implemented in Cuyahoga County (or the portion of Cuyahoga County including United), United shall begin implementation of the control program specified in Finding 7. The control program shall result in no visible particulate emissions from source F002, except for a period of time not to exceed one minute during any sixty-minute observation period, as determined in accordance with OAC rule 3745-17-03(B)(4). Final compliance shall be

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achieved within two months of notification from Ohio EPA that the contingency plan is being put into effect.

2. If, after the effective date of these Orders and prior to the notification in Order 1, United shuts down any sources, the particulate emission reductions from such sources may be credited toward the required particulate emission reductions specified in Finding 6 and these Orders may be modified accordingly. United shall submit such proposed contingency measures to Ohio EPA and the Cleveland DAPC for approval in any request to modify these Orders.

VI. 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to the United facility.

VII. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to the Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Attn: Thomas Kalman
P. O. Box 1049
Columbus, Ohio 43216-1049

and

City of Cleveland
Division of the Environment
Department of Public Health & Welfare
Attn: Lian Ang
1952 St. Clair
Cleveland, Ohio 44114

as specified in these Orders or to such persons and addresses as may hereafter be otherwise specified in writing by the Ohio EPA.

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By: Vickie Glenn Date 7-12-95

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VIII. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal or equitable action as deemed appropriate and necessary, including penalties against United for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require United to perform additional activities pursuant to Chapter 3704 of the ORC or any other applicable law in the future. Nothing herein shall restrict the right of United to raise any administrative, legal or equitable claim or defense with respect to such further actions which the Ohio EPA may seek to require of United.

IX. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:

By: Donald R. Schregardus 7-10-95
Donald R. Schregardus Date
Director
Ohio EPA

X. WAIVER

United agrees that these Orders are lawful and reasonable and United agrees to comply with these Orders.

United hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek judicial review of these Orders either in law or equity.

Notwithstanding the preceding, the Ohio EPA and United agree that in the event that these Orders are appealed by any other party to the Environmental Board of Review, or any court, United retains the right to intervene and participate in such appeal. In such event, United shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

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By: Wickie Glenn Date 7-12-95

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IT IS SO AGREED:

United Ready Mix

Harvey J. Newsom
BY HARVEY J. NEWSOM

6-20-95
Date

President
Title

Ohio EPA

Donald R. Schregardus
Director

7/10/95
Date

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By: William [Signature] Date 7-12-95