



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

SEP 29 2011

REPLY TO THE ATTENTION OF:

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Michael L. Evelhoch  
CPA, VP and Controller  
Harsco Minerals International  
5000 Ritter Road  
Suite 205  
Mechanicsburg, Pennsylvania 17055

Re: Harsco Minerals International, Slag Processing Facility in  
Warren, Ohio  
Administrative Consent Order EPA-5-11-113(a)-OH-13

Dear Mr. Evelhoch:

Enclosed is an executed original of the Administrative Consent Order regarding the above captioned case. If you have any questions about the Order, please contact me at 312-886-6798.

Sincerely yours,

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

William L. MacDowell  
Chief

Air Enforcement and Compliance Assurance Section (MN/OH)

Enclosure: Administrative Consent Order EPA-5-11-113(a)-OH-13

cc: Ed Fasko, NEDO  
Robert Hodanbosi, OEPA

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	<b>EPA-5-11-113(a)-OH-13</b>
	)	
<b>Harsco Corporation</b>	)	<b>Proceeding Under Sections 113(a)(1)</b>
<b>Warren, Ohio</b>	)	<b>and 114(a)(1) of the Clean Air Act,</b>
	)	<b>42 U.S.C. §§ 7413(a)(1) and 7414(a)(1)</b>
<b>Respondent</b>	)	
_____	)	

**Administrative Consent Order**

1. The Director of the Air and Radiation Division U.S. Environmental Protection Agency, Region 5, is issuing this order to Harsco Corporation, 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. EPA approved Ohio Administrative Code (OAC) Rules 3745-31-02 and 3745-31-03 as part of the federally enforceable state implementation plan (SIP) for Ohio. 68 Fed. Reg. 2909 (2003).

4. OAC Rules 3745-31-02 and 3745-31-03 require, among other things:

- a. 3745-31-02(A)(1): "Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants . . . without first obtaining a permit to install from the director . . . ."
- b. 3745-31-02(A)(2): "The owner or operator of any air contaminant source may apply for a permit to install to voluntarily limit the allowable emissions from the

air contaminant source or limit the type of air contaminants authorized to be emitted from the air contaminant source. The director shall act upon such application in accordance with the requirements of rule 3745-31-05 of the Administrative Code . . . .”

- c. 3745-31-03(A)(3): “The transferee of any permit to install shall assume personally the responsibilities of the original permit holder-transferor . . . .”

5. EPA approved Ohio Administrative Code (OAC) Rule 3745-31-05 as part of the federally enforceable state implementation plan (SIP) for Ohio. 68 Fed. Reg. 2909 (2003).

6. OAC Rule 3745-31-05 requires, among other things:

- a. 3745-31-05(A): “The director shall issue a permit to install . . . if he determines that the installation or modification and operation of the air contaminant source . . . will:

- (1) Not prevent or interfere with the attainment or maintenance of applicable . . . ambient air quality standards;
- (2) Not result in a violation of any applicable laws . . . ; and
- (3) Employ the best available technology . . . .”

- b. 3745-31-05(D): “The director may impose such special terms and conditions as are appropriate or necessary to ensure compliance with the applicable laws and to ensure adequate protection of environmental quality. Special terms and conditions . . . shall be federally enforceable . . . .”

- c. 3745-31-05(D)(3): “The transferee of any permit to operate shall, personally, assume the responsibilities of the original permit holder-transferor . . . .”

7. EPA approved Ohio Administrative Code (OAC) Rule 3745-35-02 as part of the federally enforceable state implementation plan (SIP) for Ohio. 47 Fed. Reg. 25145 (1982).

8. OAC Rule 3745-35-02 requires, among other things:

- a. 3745-35-02(A): “Except as otherwise provided in paragraph (H) of this rule . . . no person may cause, permit, or allow the operation or other use of any air contaminant source without applying for and obtaining a permit to operate from the Ohio Environmental protection Agency . . . .”
- b. 3745-35-02(D)(3): “The transferee of any permit to operate shall, personally, assume the responsibilities of the original permit holder-transferor . . . .”
- c. 3745-35-02(D)(6): “The director may include such other terms and conditions as are necessary to ensure compliance with applicable air pollution control law or to gather information about ambient air quality, emission levels, or other aspects of the source operations.”

9. 40 C.F.R. 52.23 states: “Failure to comply with any provisions of this part or with any approved regulatory provision of a State implementation plan, or with any permit condition...issued pursuant to approved or promulgated regulations... shall render the person or governmental entity 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 . . . .”

10. Under Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), the Administrator of EPA may issue an order requiring compliance to any person who has violated or is violating any requirement of a SIP. The Administrator has delegated this authority to the Director of the Air and Radiation Division.

11. The Administrator of EPA may require any person who owns or operates an emissions source to 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**

12. Harsco Minerals International, a Division of Harsco Corporation (Harsco), owns and operates a slag reclaim facility at 101 Tidewater Road Northeast in Warren, Ohio (facility).

13. The facility identified in paragraph 12 is a Stationary Source as that term is defined in the Clean Air Act and the federally approved Ohio State Implementation Plan.

14. Harsco purchased the facility identified in paragraph 12 in April, 2007.

15. The Ohio Environmental Protection Agency (OEPA) issued permit to install (PTI) 02-0988 to Ogelbay Norton Engineered Products on May 14, 1997. PTI 02-0988 transferred to Harsco.

16. PTI 02-0988 includes the process identified as P003.

17. Process P003 emits, among other pollutants, particulate matter and visible particulate emissions.

18. PTI 02-0988 includes certain permit terms and conditions which apply to process P003.

19. PTI 02-0988, Additional Special Terms and Conditions (A) states: "Particulate emissions from P002 and P003 shall be controlled by fabric filter baghouses."

20. PTI 02-0988, Additional Special Terms and Conditions (C)(2), Operational Restrictions states: "The collection efficiency of the air pollution capture hoods on emissions unit P003 shall be sufficient to minimize or eliminate visible particulate emissions of fugitive dust at all points of capture."

21. PTI 02-0988, Additional Special Terms and Conditions (C)(3), Operational Restrictions states: “The air pollution control system on emissions unit P003 shall be operated with sufficient volumetric flow rate to minimize or eliminate visible particulate emissions at the point(s) of capture to the extent possible with good engineering design.”

22. EPA issued a Notice of Violation (“NOV”) to Harsco December 30, 2010, alleging, among other things, Harsco failed to comply with all permit terms and conditions in PTI 02-0988.

23. On February 10, 2011, representatives of Harsco and EPA discussed the December 30, 2010 Notice of Violation.

24. Harsco’s failure to comply with all permit terms and conditions was caused by a failure to maintain the enclosures for certain belt conveyor transfer points in P003.

25. Harsco completed installation of a larger capacity baghouse on P003. The installation was completed by December 2010.

26. Harsco completed installation of gasketed enclosure panels on the weigh-belt conveyors for silos T-9 through T-12 and an enclosed drum connection at the end of the reversing conveyor number 13 in P003, which were the subject of EPA’s December 30, 2010, NOV. The installation was completed by February 10, 2011.

27. Harsco completed installation of permanent enclosure panels on the incline conveyor number 14, which was also the subject of EPA’s December 30, 2010 NOV. The installation was completed by February 10, 2011.

#### **Compliance Program**

28. The enclosure panels and drum connection referenced in paragraphs 26 and 27 are designed to assure particulate emissions from P003 are directed to fabric filter baghouses for control.

29. The enclosure panels, drum connection and sections referenced in paragraphs 26 and 27 are designed to minimize or eliminate visible particulate emissions of fugitive dust at the respective panels and sections.

30. The larger capacity baghouse referenced in paragraph 25 and the enclosure panels and drum connection referenced in paragraph 26 are designed to provide sufficient volumetric flow rate to minimize or eliminate visible particulate emissions at the point(s) of capture to the extent possible with good engineering design.

31. Harsco must apply to OEPA (the delegated permitting authority) for revision to PTI 02-0988.

32. The application for the permit revision referenced in paragraph 31 must request that visible emission limitations from the enclosure panels referenced in paragraph 26 be added to state no visible emissions shall be allowed from the gasketed enclosure panels for the weigh-belt conveyor transfer points for silos T-9 through T-12 and drum connection at the end of reversing conveyor number 13.

33. The application for the PTI revision must be submitted within 30-days after the date this Order is filed with the Hearing Clerk.

34. A copy of the application referenced in paragraph 33, as submitted, must be sent to:

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

### **General Provisions**

35. This Order does not affect Harsco's responsibility to comply with other local, state and federal laws and regulations.

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

37. 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, except for federal civil penalties for the violations alleged in this Order.

38. Failure to comply with this Order may subject Harsco to penalties of up to \$37,500 per day for each violation under Section 113 of the Act, 42 U.S.C. § 7413, and 74 Fed. Reg. 626 (2009) (amending 40 C.F.R. Part 19).

39. The terms of this Order are binding on Harsco, its assignees and successors. Harsco must give notice of this Order, if still in effect, to any successors in interest, prior to transferring ownership and must simultaneously verify to EPA, at the above address, that Harsco has given the notice.

40. Harsco may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Harsco fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Emission data provided under Section 114 of the Act, 42 U.S.C. § 7414, is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. "Emission data" is defined at 40 C.F.R. § 2.301.

41. This Order is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 et seq., because it seeks 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 furnish an electronic copy on CD or thumb drive. If not possible, provide your response to this Order without staples; paper clips and binder clips, however, are acceptable.

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

43. Harsco Corporation agrees to the terms of this Order.

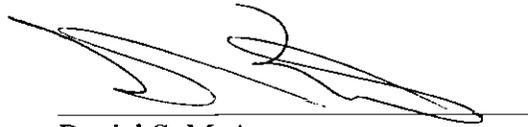
44. Harsco neither admits nor denies the factual allegations and conclusions of law set forth above in this order.

45. This Order is effective on the date of signature by the Director of the Air and Radiation Division.

46. This Order expires upon Harsco's submission of a permit application to EPA as described in paragraph 34 that meets the conditions set forth in paragraph 32.

**Harsco Corporation**

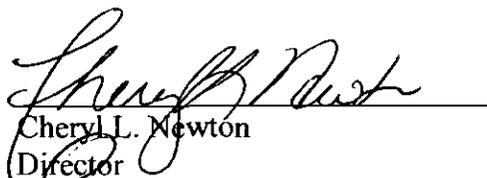
September 27<sup>th</sup>, 2011  
Date



Daniel S. McAtee  
President  
Harsco Minerals International

**United States Environmental Protection Agency**

9/29/11  
Date



Cheryl L. Newton  
Director  
Air and Radiation Division  
U.S. Environmental Protection Agency  
Region 5

**CERTIFICATE OF MAILING**

I, Betty Williams, certify that I sent the Administrative Consent Order,  
No. EPA-5-11-113(a)-OH-13, by Certified Mail, Return Receipt Requested, to:

Michael L. Evelhoch  
CPA, VP and Controller  
Harsco Minerals International  
5000 Ritter Road  
Suite 205  
Mechanicsburg, Pennsylvania 17055

I also certify that I sent a copy of the Administrative Consent Order, No.  
EPA-5-11-113(a)-OH-13, by First-Class Mail to:

Ed Fasko, APC Manager  
Ohio Environmental Protection Agency  
North District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087

Robert Hodanbosi, Chief  
Division of Air Pollution Control  
Ohio Environmental Protection Agency  
P.O. Box 1049  
2110 East Aurora Road  
Columbus, Ohio 43138

on the 30<sup>th</sup> day of September 2011.

  
Betty Williams  
Administrative Program Assistant  
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 70091680000076728041