

AGREED BOARD ORDER NO. 11-11

LOUISVILLE METRO AIR POLLUTION CONTROL BOARD

Incident Nos. 05964, 06019

This Order is issued by the Louisville Metro Air Pollution Control Board (Board) pursuant to Kentucky Revised Statutes Chapter 77 (Air Pollution Control). This Agreement is made by and between the Board and Eckart America Corporation (Company), a Delaware company, and is effective on the date of its adoption by the Board.

COMPANY: Eckart America Corporation
4101 Camp Ground Road
Louisville, KY 40211

REGULATIONS INVOLVED:

District Regulation 2.16: Title V Operating Permits
District Regulation 2.03: Permit Requirements - Non-Title V Construction and Operating Permits and Demolition/Renovation Permits

NOTICE OF VIOLATION LETTER: No. 02291, dated July 12, 2011
No. 02327, dated October 3, 2011

BACKGROUND AND DISCUSSION:

Company is a manufacturer of metallic pigments and is subject to the requirements of Louisville Metro Air Pollution Control District (District) Title V Permit No. 143-97-TV and various construction permits. Company failed to conduct required visual emissions surveys, mechanical integrity inspections and other monitoring required by its permits, and operated equipment that utilized condensers that exceeded permitted temperature limits, resulting in several exceedances of volatile organic compound (VOC) emission limits. Company also failed to obtain District permits for certain equipment, failed to install controls on certain equipment, and failed to certify information truthfully, accurately, and completely in its Title V compliance certifications.

Company reported in its 2010 second semi-annual report that it had failed to perform monthly visual emission surveys (VES) for four months on four emission units. In addition, Company reported that it exceeded the 50°F temperature limit on a condenser for two mills, and a condenser for two units also known as the zinc mill. The condenser for the two mills had

temperatures above 50°F on 149 days of the 184 day reporting period, or 81% of the time. The condenser for the two units known as the zinc mill had temperatures above 50°F on 142 days of the 184 day reporting period, or 77% of the time. The District requested and reviewed additional temperature records on the condensers and discovered that the mill condenser was out of compliance for 74% of 2010, and the zinc mill condenser was out of compliance for 71% of 2010.

The District then began review of previous compliance reports submitted by Company and discovered discrepancies. The District requested that Company review the reports and submit any necessary corrections. As a result, Company submitted revised annual compliance certifications from 2006 to 2009, and updates to semi-annual compliance reports submitted from 2006 to 2010. At the same time, the District had scheduled a routine on-site inspection of Company. Upon review of Company's compliance reports from 2006 to early 2011, including revised reports, and as a result of the District's on-site inspection and corresponding full compliance evaluation, the District documented 100 violations of Company's Title V and construction permits, some on multiple occasions, or for extended periods of time. Company's non-compliance included failure to fulfill monitoring, recordkeeping, and reporting requirements, as well as failure to obtain District permits for certain equipment and failure to install controls on certain equipment. Company also exceeded VOC emission limits on six occasions, and exceeded aluminum emission limits on one occasion.

Finally, Company failed to certify information truthfully, accurately, and completely in its Title V compliance certifications from 2006 to 2009, which has been designated a high priority violation (HPV) by the United States Environmental Protection Agency.

In order to demonstrate compliance with its permits, Company submitted revised annual compliance certifications from 2006 to 2009, and updates to semi-annual compliance reports submitted from 2006 to 2010. Company also submitted revised annual VOC emission calculations. Company trained five staff to conduct VES and Method 9 surveys. Company began to comply with monitoring and recordkeeping for the majority of equipment by August 25, 2011, and agreed to a compliance plan and schedule in order to achieve compliance with all outstanding compliance issues by December 31, 2012. Company also agreed to conduct an engineering evaluation of the processes controlled by the condensers to include a review of VOC emissions, the need for additional controls, modifications to existing control systems, or design of new control systems.

To fully address the violations of District Regulations 2.16 and 2.03 alleged above, the parties agree to this Order assessing against the Company an administrative settlement of \$668,250 for the gravity component of the penalty. An additional assessment for the economic benefit component of the penalty will be assessed following the engineering evaluation. On October 19, 2011, a public hearing was held before the Board on this proposed Order. Based upon the information presented at that hearing, the Board determines that the proposed resolution and requirements contained in this Order are reasonable under the circumstances.

NOW, THEREFORE BE IT ORDERED THAT:

1. Company shall pay \$668,250 to the Louisville Metro Air Pollution Control District by October 31, 2011.

2. Company shall comply with the Compliance Plan and Schedule included as Attachment A in this Order.

3. Parties agree that the economic benefit component of the penalty corresponding to Incident Nos. 05964 and 06019 shall be assessed by the District after Company determines what actions shall be required to come into compliance, following completion of the engineering evaluation described in the Compliance Plan and Schedule included as Attachment A in this Order.

4. Company has reviewed this Order and consents to all its requirements and terms. Company agrees to pay the cost of publishing legal notice of the public hearing.

5. In the event that it is necessary for the District to seek a court order to enforce this Order, Company agrees to pay filing fees and costs of such action.

6. This Order resolves the violations alleged in Incident Nos. 05964 and 06019, and as alleged in this Order, with the exception of No. 3 above.

7. Neither this Order nor the actions taken hereunder shall constitute an admission by Company of any wrongdoing regarding any of the matters referenced in this Order.

Louisville Metro Air Pollution Control Board

Eckart America Corporation

By: Robert W. Powell M.D.
Robert W. Powell, M.D.
Chairman

By: Mark Westwell
Mark Westwell
General Manager

Date: 10-19-2011

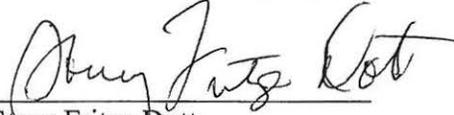
Date: 10/17/11

Louisville Metro Air Pollution Control District

By: Paul Aud
Paul Aud, P.E.
Air Pollution Control Officer

Date: 10-17-11

Approved as to form and legality:

By: 
Stacy Fritze Dott
Assistant County Attorney

ATTACHMENT A
COMPLIANCE PLAN AND SCHEDULE

I. Condenser Temperature

Company shall move the temperature probe for Solvent Exchanger 2 from the vacuum pump to the exhaust of the solvent exchanger condenser by 10/31/11. If Solvent Exchanger 2 cannot be operated at 50°F or less, it shall be included in the engineering evaluation and subsequent actions identified below.

Company shall conduct an engineering evaluation of the existing systems to evaluate air stream characteristics and design appropriate control by 2/29/12. The evaluation shall include a review of VOC emissions, the need for controls, and modifications to existing control systems or the design of new control systems.

Company shall select an engineering company to evaluate the respective process and control systems by 10/31/11.

Company shall conduct stack testing on the Zinc Mill and Mills 13/14 processes by 10/31/11.

Company shall provide the District with a report detailing the results of the engineering evaluation by 11/30/11.

If the engineering evaluation indicates that modifications to or replacement of the condensers are feasible to control emissions and achieve the 50°F permit requirement, Company shall submit a construction permit application to the District by 2/29/12.

If the evaluation indicates that condensers are not feasible control options, Company shall prepare a Best Available Control Technology (BACT) analysis to evaluate the most appropriate control option and submit to the District by 2/29/12.

Company shall begin implementation of modifications upon receipt of a construction permit from the District, but no later than 5/31/12.

Company shall conduct compliance stack testing upon completion of the proposed modifications and District approval of a testing protocol. Company shall submit the stack test protocol in conjunction with the construction permit application. Company shall complete compliance stack testing by 8/31/12. Company shall submit results to the District by 10/31/12.

II. Condenser Operation and Tracking

Company shall submit a condenser operation log to the District by 10/31/11.

Company shall develop written procedures and provide employee training to ensure compliance with the condenser operation and tracking requirements by 10/31/11.

Company shall submit a proposed method to the District for calculating emissions when condensers are by-passed, not operating, or operating in excess of 50°F by 10/31/11. Company shall include these District approved calculation methods in proposed modified emission calculation software by 3/31/12. Company shall manually prepare calculations on a monthly basis until calculation software is fully implemented.

III. Condenser Temperature Monitoring

Company shall develop written procedures and provide employee training to ensure compliance with condenser temperature monitoring and recordkeeping requirements by 10/31/11.

IV. Condenser Control Requirements

Company shall connect approximately 24 screens from New Paste, Zinc Mill and Mills 13/14 processes by 12/31/11, or prepare a BACT analysis to evaluate the most appropriate control option and submit to the District by 12/31/11.

V. Daily Hours of Operation

Company shall evaluate options for capturing data after a server error. Company shall ensure that hours are identified as 0 instead of no data when processes are shut down and not communicating with the server. Company shall review tracking methods for all equipment to ensure that valid production rates and surrogate relationships are monitored and recorded. Company shall identify all equipment with a permit requirement to monitor production hours. Company shall review how hours are currently monitored for that equipment and will identify where changes or additional tracking is necessary. Company shall modify current monitoring and record keeping methods to implement the changes identified above by 12/31/11.

Company shall develop written procedures and provide employee training to ensure compliance with daily hours of operation monitoring and recordkeeping requirements by 12/31/11.

VI. VOC Calculations

Company shall update emission tracking spreadsheets with the most current emission factors for all process equipment by 10/31/11. Company shall continue to maintain existing emission tracking spreadsheets until proposed emission tracking software is installed and populated.

Company shall establish calculations to maintain 12-consecutive month totals on a monthly basis by 10/31/11.

Company shall update emission calculation spreadsheets to use updated production data by 12/31/11.

Company shall develop written procedures and provide employee training to ensure compliance with VOC calculation monitoring and recordkeeping requirements by 10/31/11.

VII. Natural Gas Throughput

Company shall develop written procedures and conduct employee training to ensure compliance with natural gas throughput monitoring and recordkeeping requirements by 10/31/11.

VIII. Visible Emission Surveys

Company shall develop written procedures and provide employee training to ensure compliance with VES monitoring and recordkeeping requirements by 10/31/11.

IX. Cyclone Inspections

Company shall develop written procedures and provide employee training to ensure compliance with cyclone inspection monitoring and recordkeeping requirements by 10/31/11.

X. Tank Contents

Company shall complete a tank contents log and submit to the District by 10/31/11.

Company shall develop written procedures and conduct employee training to ensure compliance with tank content monitoring and recordkeeping requirements by 10/31/11.

XI. Solvent Throughput

Company shall track solvent throughput requirements by 12/31/11.

Company shall submit a solvent throughput log to the District by 2/29/12.

Company shall develop written procedures and provide employee training to ensure compliance with solvent throughput requirements by 2/29/12.

XII. Construction Permit Applications

Company shall provide justification for insignificant activities to the District by 10/31/11.

Company shall submit construction permit applications for all non-insignificant unpermitted equipment by 10/31/11.