

5/29/84

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL RESOURCES

In The Matter Of:

East Penn Manufacturing Corporation :
Richmond Township :
Berks County, Pennsylvania :

CONSENT ORDER AND AGREEMENT

This Consent Order and Agreement is issued by the Commonwealth of Pennsylvania, Department of Environmental Resources (hereinafter "Department"), pursuant to Section 4 of the Air Pollution Control Act, the Act of January 8, 1960, P.L. 2119, as amended, 35 P.S. §4001 et seq., and the rules and regulations promulgated thereunder.

Whereas, East Penn Manufacturing Corporation (hereinafter "the Company") is a Pennsylvania corporation which owns and operates a secondary lead smelter facility in Richmond Township, Berks County, Pennsylvania, which facility includes air contamination sources subject to the Department's regulations.

Whereas, lead emissions from said facility have been identified to include, but not limited to, the following air contamination sources: battery breaking, raw material and slag storage areas, lead smelter and refinery buildings, road and yard areas, and cable and battery plants.

Whereas, the Department has performed a study of lead emissions from the facility, which the Department interprets as indicating the potential for nonattainment of national ambient air quality standards (hereinafter "NAAQS") for lead in the vicinity of the facility at current emission levels; ambient air quality monitoring conducted by the Company and the Department for the last two calendar quarters of 1982 and the four quarters of 1983 indicates compliance with the NAAQS for lead.

Whereas, 25 Pa. Code §141.1 authorizes the Department to impose standards related to the attainment and maintenance of any ambient air quality standard.

Whereas, Section 110 of the Federal Clean Air Act, 42 U.S.C. §7410 requires each state to develop a state implementation plan for attainment of the NAAQS for lead.

Whereas, the Company has committed to reduce total emissions sufficient to assure the attainment and maintenance of the NAAQS for lead as expeditiously as practicable but in no event later than the attainment date specified pursuant to Section 110 of the Federal Clean Air Act and 40 CFR 51.30.

Whereas, the Department will submit this Consent Order and Agreement to the U.S. Environmental Protection Agency as a part of the Pennsylvania State Implementation Plan for Lead, in accordance with Section 110 of the Federal Clean Air Act, 42 U.S.C. 7410.

Now, therefore, the Department and the Company, intending to be mutually bound, do hereby agree and covenant as follows:

A. On or before March 15, 1984, the Company shall submit for Department approval a Plan Approval Application(s) for the construction and/or implementation of the specific additional control measures specified in Appendix A. All necessary equipment and the specified control measures described in the Plan Approval Application(s) shall be installed and operational by no later than May 31, 1985.

B. The Company shall submit quarterly progress reports, signed by an authorized official within thirty (30) days after the end of each calendar quarter, which shall describe the progress that has been made and the emission control measures that have been implemented during the most recent calendar quarter. Such reports shall be submitted in triplicate to the Bethlehem District Office after the end of each calendar quarter while this Consent Order and Agreement is in effect.

C. On or before June 1, 1984, the Company shall install and operate at the facility meteorological monitoring equipment for wind speed and direction, atmospheric stability, and atmospheric temperature in accordance with guidelines established in EPA 450/4-80-012 of November 1980. Said meteorological monitoring shall not be required after demonstration of attainment of the NAAQS for lead.

D. The Company shall continue to monitor ambient air quality at the existing sampler locations. The Department will review the meteorological data obtained pursuant to paragraph C. As a result of this review the Department may require the Company to relocate one existing sampler and install and operate an additional sampler. If the Department requires these changes: (1) the Department will identify, on or before March 1, 1985, the existing sampler that should be relocated, the new location for the existing sampler and the location for the new sampler and (2) on or before June 1, 1985, the Company shall relocate the identified existing sampler and install and operate the additional new sampler at the specified locations.

The ambient air quality monitoring (including the site selection) shall be in accordance with the specifications set forth in EPA-450/4-81-006 of January 1981 and other applicable guidelines. Prior to identifying new sampling sites the Department will meet and confer with the Company on the appropriate sites to select.

If the Department determines that the lead NAAQS has been attained, the Department shall review the ambient air quality monitoring requirements and emission inventory, meteorological, air quality and other data for the purpose of determining the minimum monitoring requirements necessary to demonstrate maintenance of the lead NAAQS. Prior to determining the minimum monitoring

requirements the Department will meet and confer with the company. After the Department notifies the Company of the minimum monitoring requirements, the company may reduce the monitoring network to the minimum requirements.

After presenting sufficient supporting data and securing the consent of the Department, the Company may relocate a sampler to a Department approved site.

E. The Company shall submit to the Department, on a quarterly basis, all meteorological and ambient air quality data from its monitoring equipment. The data shall be forwarded in duplicate to the Bethlehem District Office within thirty (30) days of the end of each calendar quarter while this Consent Order and Agreement is in effect.

F. On or before June 1, 1984 the Company shall submit for the Department's approval a quality control plan for the ambient air and meteorological monitoring networks in order to secure valid data.

G. On or before January 1, 1985 the Company shall undertake and complete emission (stack) tests for lead in accordance with 25 Pa. Code Chapter 139 on the following sources:

1. process bag house,
2. sanitary bag house,
3. battery breaking scrubber,
4. refinery bag house.

The results of each test shall be submitted to the Department within 60 days after the completion of each test.

H. On or before July 1, 1986 the Department shall determine whether the emission control measures specified in Paragraph A are sufficient to ensure attainment and maintenance of the NAAQS. If the Department determines that the NAAQS for lead has not been attained and/or will not be maintained, the Company shall within 60 days of the Department's notification, submit a list of additional appropriate control measures that could be implemented by March 31, 1989.

I. The Department and the Company will meet and confer on the additional control measures that could be implemented to meet the NAAQS for lead. If the Company and the Department fail to reach agreement by December 31, 1986 on the additional emission control measures that will be implemented to meet the NAAQS for lead, the Department may in its reasonable discretion issue an order to implement specific control measures. The Company shall implement these control measures as expeditiously as practicable, but not later than March 31, 1989.

J. The Company shall continue to operate and maintain the existing lead emission control measures and work practices installed at the facility.

K. This Consent Order and Agreement shall constitute a final Order of the Department issued pursuant to Section 4 (4.1) of the Pennsylvania Air Pollution Control Act (35 P.S. Section 4004 [4.1]).

L. The obligations to comply with the terms set forth in paragraphs A, C, D, E, and G shall be delayed in the event of force majeure, including act of God, war, riot, fire, explosion, accident, flood, sabotage, storms, hurricanes, washouts, lightning, accidents to machinery or equipment, strikes or other industrial disturbances, civil disturbances, national defense requirements, unreasonable delays or unreasonable failure by the Department to grant plan approval or permits, or any other like event beyond the reasonable control of the Company which prevents the timely completion of an obligation and which the Company cannot adequately remedy or substitute. In no event shall the completion of an obligation be extended beyond April 1, 1987. The Company shall give written notice to the Department of the occurrence of any force majeure event promptly upon discovery, and upon satisfactory demonstration to the Department of the supporting facts, the time limits provided herein shall be extended for a time period necessary to complete the obligation.

M. The Company hereby agrees to waive its right to appeal the provisions of this Order contained in paragraphs A, B, C, D, E, F, G, H, and J, herein to the Pennsylvania Environmental Hearing Board and/or request a hearing hereon and acknowledges that the Order may be enforced in any manner permitted by law, including actions for civil penalties, and agrees to waive its right to appeal the promulgation of the Consent Order and Agreement as part of the Pennsylvania State Implementation Plan. The Company specifically reserves its right to appeal to the Pennsylvania Environmental Hearing Board and to request a stay or supercedeas from any other Department action not covered by the above listed paragraphs, including any action pursuant to paragraphs I and L.

N. So long as the Company fully complies with all provisions of this Consent Order and Agreement, the Department will not institute any action at law or in equity for any violations of the laws or regulations of the Commonwealth of Pennsylvania relating to lead emissions prior to the termination of this Consent Order and Agreement; but if the Company fails to fully comply with any provisions of the Consent Order and Agreement, the Department may institute any appropriate action based upon any violation of the laws or regulations of the Commonwealth of Pennsylvania occurring prior to or after the date of this Consent Order and Agreement. Any litigation that the Company undertakes pursuant to paragraphs I and L shall relieve the Department of the provisions of this paragraph.

O. The Department does not waive any rights it may have to take any action with respect to violations of Department's other emission regulations, specifically including particulate matter emissions. Furthermore this Consent Order and Agreement shall not be construed as a limitation or abridgement of the Department's rights and duties pursuant to Section 6.2 of the Act, 35 P.S. Section 4006.2.

P. This Consent Order and Agreement shall constitute the entire agreement between the Company and the Department and no alterations, additions or amendments thereto shall be valid unless in writing and duly executed by the Company and the Department.

Q. This Consent Order and Agreement shall remain in effect until April 1, 1989 unless extended by mutual consent of the parties.

FOR EAST PENN MANUFACTURING CORPORATION:

We, _____ and _____
do hereby affirm that we are officers of East Penn Manufacturing Corporation and
are authorized to execute this Consent Order and Agreement for the Company.

5/29/84
Dated

Donald A. Wajton
President or Vice President

5/29/84
Dated

John C. Trimm
Secretary or Treasurer

5/29/84
Dated

William M. DeLong
Attorney for East Penn Manufacturing
Corporation

FOR DEPARTMENT OF ENVIRONMENTAL RESOURCES:

5/29/84
Dated

N. Rao Kone
Regional Air Pollution Control Engineer

6/8/84
Dated

Thomas G. [Signature]
Attorney for Department

Appendix A

Specific Control Measures

1. Low speed limits shall be imposed and strictly enforced on all smelter roadways by posting of 10 mph speed limit signs, training of employees during regular motive equipment training sessions, and enforced through disciplinary procedures.
2. Dust suppressant shall be routinely applied to all smelter road shoulders and unpaved smelter yard areas on a weekly basis.
3. The wheels and undercarriages of all smelter vehicles shall be washed before leaving the material storage building.
4. All smelter roads and paved areas shall be cleaned with a brush-type sweeper at least once per day, weather permitting.
5. The discharge of the sanitary baghouse shall be changed to a vertical vent that does not exceed "good engineering practice" stack height.
6. All materials from battery breaking shall be transferred to the ventilated material storage building by conveyors or chutes.
7. The Company shall enclose the slag storage area on three sides.
8. The Company shall ventilate the battery breaking process equipment through a scrubber and the agglomerator furnace process equipment through a baghouse or equivalent Department approved air pollution control equipment.