

BEFORE THE MISSOURI DEPARTMENT OF NATURAL RESOURCES

In the Matter of:)
)
PETERSON MANUFACTURING COMPANY) **No. APCP-2023-031**
)
)
Proceeding Under the)
Missouri Air Conservation Law)

ADMINISTRATIVE ORDER ON CONSENT

NOTICE TO THE RESPONDENT

The issuance of this Administrative Order on Consent No. APCP-2023-031 (Order) by the Missouri Department of Natural Resources (Department) is a formal administrative action by the State of Missouri and is being issued because PETERSON MANUFACTURING COMPANY (Respondent) is in violation of Missouri Air Conservation Law, Chapter 643, of the Revised Statutes of Missouri (RSMo), and its implementing regulations. This Order is issued under Sections 643.060(4), 643.080, and 643.085, RSMo. Failure to comply with this Order is, by itself, a violation of the Missouri Air Conservation Law under Section 643.151.3, RSMo.

FINDINGS OF FACT

1. The Respondent is an active business registered and in good standing with the Missouri Secretary of State.

2. The Respondent owns and operates a vehicle safety lighting systems and accessories manufacturing plant, located at 4200 East 135th Street, Grandview, in Jackson County, Missouri.

3. On January 17, 2023, an inspector from the Department's Kansas City Regional Office (KCRO) conducted a routine compliance inspection of the Respondent's facility. The inspector identified the following violations:

- a. Failure to submit an operating permit renewal application at least six months prior to the permit expiration date, which is a violation of 10 CSR 10-6.065, "Operating Permits."
- b. Failure to conduct inspection of the solids discharge valve on the fluidized bed cyclone at least once a week, and record the results of each weekly inspection as required by Construction Permit 052020-013, which is a violation of 10 CSR 10-6.060, "Construction Permits Required."
- c. Failure to record pressure drop across the auto body refinishing spray paint booth filter at least once every 24 hours while operating, as required by Permit to Operate No. OP2018-045, which is a violation of 10 CSR 10-6.065. "Operating Permits."
- d. Failure to maintain an operating and maintenance log for the auto body refinishing spray paint booth filters as required by OP2018-045, which is a violation of 10 CSR 10-6.065, "Operating Permits."
- e. Failure to conduct annual training for solvent cleaning equipment operators, which is a violation of 10 CSR 10-2.210 "Control of Emissions from Solvent Metal Cleaning" and 10 CSR 10-6.065 "Operating Permits."

- f. Failure to calculate the monthly and rolling 12-month Hazardous Air Pollutant (HAP) emissions for each individual HAP and total combined HAP, as required by OP2018-045, which is a violation of 10 CSR 10-6.065 "Operating Permits."
 - g. Failure to calculate the monthly emissions of Volatile Organic Compounds (VOC) for each emission unit and the 12-month rolling total VOC emissions, as required by OP2018-045, which is a violation of 10 CSR 10-6.065 "Operating Permits."
 - h. Failure to calculate monthly emissions of VOC and 12-month rolling total emissions of VOC for auto body refinishing spray paint booth and general maintenance spray paint booth as required by OP2018-045, which is a violation of 10 CSR 10-6.065 "Operating Permits."
 - i. Failure to conduct observations for visible air emissions as required by OP2018-045, which is a violation of 10 CSR 10-6.065 "Operating Permits."
 - j. Failure to conduct monitoring for fugitive particulate matter emissions beyond the property boundaries as required by OP2018-045, which is a violation of 10 CSR 10-6.065 "Operating Permits."
4. On February 8, 2023, the Department issued Referral Notice of Violation (RNOV) No. KCAP23003 to the Respondent to document violations identified.
5. Since the January 13, 2023, inspection, the Respondent has returned or has taken steps to return to compliance. On March 16, 2023, the Department received a response to the RNOV documenting steps taken to return to compliance. The Respondent

has submitted a renewal application for the operating permit, began conducting weekly inspections on the fluidized bed cyclone, began recording pressure drops across filter once every 24 hours, started maintaining the operating and maintenance log for the auto body refinishing spray booth filters, conducted parts washer training in February of 2023, updated and submitted total and rolling VOC and HAP emissions, began conducting opacity observations for visible air emissions, and began conducting monitoring for fugitive particulate matter emissions beyond the property of origin. On January 15, 2024, the Respondent delivered the missing 12-month rolling total HAP emissions from September 2017 through March 2022.

6. The amount of the administrative penalty is assessed according to the criteria of 10 CSR 10-6.230, "Administrative Penalties." From a gravity-based analysis, it has been determined the violation in Paragraph 3.a. is a moderate potential for harm and a moderate extent of deviation from the requirement. The violation is a moderate potential for harm because failure to submit the operating permit renewal application at least six months prior to the permit expiration does not ensure enough time for the Department to adequately evaluate the application. The violation is a moderate extent of deviation because the Respondent's permit expired on June 20, 2023, and the Respondent is now operating on an expired permit. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$3,750.

7. It has been determined the violation in Paragraph 3.b. is a moderate potential for harm and a moderate extent of deviation from the requirement. The violation is a moderate potential for harm because failure to inspect the solids discharge valve

inhibits the Department's ability to determine whether the cyclone is effectively controlling emissions. The violation is a moderate extent of deviation because by not conducting the inspections as required, the facility would be unaware of any issues with the solids discharge value. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$26,250.

8. It has been determined the violations in Paragraph 3.c. and 3.d. are a moderate potential for harm and a moderate extent of deviation from the requirement. The violations are a moderate potential for harm because failure to record the pressure drop across the auto body refinishing spray paint booth filter and failure to maintain an operating and maintenance log inhibits the Department's ability to determine whether required controls are effectively controlling emissions. The violation is a moderate extent of deviation because the Respondent deviated significantly from the permit requirements. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$4,375.

9. It has been determined the violation in Paragraph 3.e. is a minor potential for harm and a minor extent of deviation from the requirement. The violation is a minor potential for harm and minor extent of deviation because parts washer operators did not receive the annual training in 2021 and have not completed the training for 2023. Using the gravity-based matrix and finding the extent of deviation as minor and the potential for harm as minor, and considering adjustment factors including fairness and equity, there is no assessed penalty.

10. It has been determined the violation in Paragraph 3.f. is a moderate potential for harm and a moderate extent of deviation from the requirement. The violation is a moderate potential for harm because failure to calculate the monthly and rolling 12-month HAP emissions inhibits the Department's ability to determine compliance with emission limits. The violation is a moderate extent of deviation because the operating permit requires HAP emission records be kept a minimum of five years, and the Respondent had no record of HAP at time of inspection. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$105,000.

11. It has been determined the violations in Paragraph 3.g. and 3.h. are a moderate potential for harm and a moderate extent of deviation from the requirement. The violations are a moderate potential for harm because failure to calculate the monthly and rolling 12-month VOC emissions inhibits the Department's ability to determine compliance with emission limits. The violations are a moderate extent of deviation because the operating permit requires VOC emission records be kept a minimum of five years, and the Respondent had no record of VOC emissions after March of 2022. Using the gravity-based matrix and finding the extent of deviation as moderate and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$52,500.

12. It has been determined the violations in Paragraph 3.i. and 3.j. are a moderate potential for harm and a minor extent of deviation from the requirement. The violations are a moderate potential for harm because failure to conduct and record visible

emissions monitoring inhibits the Department's ability to determine compliance with the visible emission limits specified in the permit. The violations are a minor extent of deviation because the Respondent conducted the required emissions monitoring until November of 2022 and continued in February of 2023. Using the gravity-based matrix and finding the extent of deviation as minor and the potential for harm as moderate, and considering adjustment factors including fairness and equity, the assessed penalty is \$6,250.

13. The total sum of the assessed penalties related to the above violations is \$198,125.

STATEMENT OF VIOLATIONS

The Department finds that the following violations of the Missouri Air Conservation Law, Chapter 643, RSMo, and its implementing regulations have occurred, thereby subjecting the Respondent to penalties as described in Sections 643.151 and 643.085, RSMo:

14. The Respondent failed to submit an operating permit renewal application at least six months prior to the permit expiration date, which is a violation of 10 CSR 10-6.065 "Operating Permits." 10 CSR 10-6.065 requires a source operating under an Intermediate Operating Permit to file a complete application for renewal of the operating permit at least six months before the date of permit expiration. Failure to submit the application on time results in expiration of the operating permit without the "application shield," resulting in operating a source without a permit. The Respondent's operating permit expired on June 20, 2023. The operating permit renewal application should have

been submitted no later than December 20, 2022. The Department received the complete operating permit renewal application on March 10, 2023.

15. The Respondent failed to conduct an inspection of the solids discharge valve on the fluidized bed cyclone at least once a week and record the results of each weekly inspection. Construction Permit 052020-013 requires the facility to inspect the solids discharge valve of the cyclone at least once a week and record the results of each weekly inspection. The Respondent had no record of inspecting the solids discharge valve since June of 2022. Failure to comply with the construction permit is a violation of 10 CSR 10-6.060 "Construction Permits Required." The Respondent began conducting weekly inspections as required on January 25, 2023.

16. The Respondent failed to record the pressure drop across the auto body refinishing spray paint booth filter at least once every 24 hours and failed to maintain an operating and maintenance log. Operating Permit No. OP2018-045 requires the facility maintain an operating and maintenance log for filters and dust cartridges and it should document incidents of malfunction, with impact on emissions, duration of event, probable cause, and corrective actions and requires the facility to measure and record pressure drops at least once every 24 hours. Failure to comply with the operating permit is a violation of 10 CSR 10-6.065 "Operating Permits." The Respondent began recording pressure drops and maintaining an operating and maintenance log, as required, in February of 2023.

17. The Respondent failed to conduct annual training for solvent cleaning equipment operators, which is a violation of 10 CSR 10-2.210 "Control of Emissions from Solvent Metal Cleaning" and 10 CSR 10-6.065 "Operating Permits." Records

showed operators last received parts washer training from September-October of 2021. Operating Permit No. OP2018-045 requires that a procedural review be given to all solvent metal cleaning operators at least once each 12 months. The Respondent submitted a training log showing the required parts washer training for all operators was conducted in February of 2023.

18. The Respondent failed to calculate the monthly and rolling 12-month HAP emissions for each individual HAP and total combined HAP. Operating Permit No. OP2018-045 states the facility shall emit less than ten tons of each individual HAP and emit less than 25 tons of combined HAP and requires the facility to record the amount of each individual HAP emissions and calculate the 12-month rolling total of HAP emissions. The Respondent had no records of monthly or rolling 12-month HAP emissions at time of inspection. Failure to comply with the operating permit is a violation of 10 CSR 10-6.065 "Operating Permits." The Respondent began calculating and recording HAP emissions and submitted documentation to the Department on March 23, 2023. On January 15, 2024, the Respondent delivered the missing 12-month rolling total HAP emissions from September 2017 through March 2022.

19. The Respondent failed to calculate the monthly emissions of VOC for each emission unit and the 12-month rolling total VOC emissions. Operating Permit No. OP2018-045 requires the facility to emit less than 100 tons of VOC per consecutive 12-month period and requires the facility to calculate and record monthly throughput for all VOC emission units and calculate the 12-month rolling total emissions of VOC. Monthly calculations of VOC emissions had not been performed since March of 2022 and no 12-month rolling totals were available. Failure to comply with the operating

permit is a violation of 10 CSR 10-6.065 "Operating Permits." The Respondent began calculating and recording VOC emissions and submitted documentation to the Department on March 14, 2023. On January 15, 2024, the Respondent delivered the missing 12-month rolling total VOC emissions from September 2017 through March 2022.

20. The Respondent failed to conduct observations for visible air emissions and failed to conduct monitoring for fugitive particulate matter emissions beyond the property boundaries. Operating Permit No. OP2018-045 requires the facility to conduct six-minute Method 22 observations to ensure visible emissions greater than 20% are not discharged into the atmosphere and requires the facility to conduct monitoring to ensure fugitive particulate matter emissions do not go beyond the property boundaries. The permit states observations should be conducted weekly for a minimum of eight consecutive weeks. If no violations are observed during the preceding eight weeks, then observations should be conducted every two weeks for eight weeks. If no violations are observed during the preceding eight weeks of observations every two weeks, then observations should be conducted once per month. The Respondent did not have records of conducting visible air emission observation or records of monitoring for fugitive particulate matter emissions since November of 2022. Failure to comply with the operating permit is a violation of 10 CSR 10-6.065 "Operating Permits." The Respondent began conducting visible air emission observations and monitoring for fugitive particulate matter emissions in February 2023.

AGREEMENT

21. The Department and the Respondent desire to amicably resolve all claims that the Department might bring against the Respondent for the violations of the Missouri Air Conservation Law and regulations described above and within RNOV No. KCAP23003. The Department and the Respondent agree that this Order resolves only the specific violations described herein, that this Order shall not be construed as a waiver or a modification of any requirements of the Missouri Air Conservation Law and regulations or any other source of law, and that this Order does not resolve any claims based on any failure by the Respondent to meet the requirements of this Order, or claims for past, present, or future violations of any statutes or regulations other than those specifically referenced herein.

22. The provisions of this Order apply to and bind the parties executing this Order, their agents, subsidiaries, successors, assigns, affiliates, and lessees, including the officers, agents, servants, corporations and any persons acting under, through, or for the parties agreeing hereto. Any changes in ownership or corporate status, including but not limited to any transfer of assets or real or personal property, do not affect the responsibilities of the Respondent under this Order. If the Respondent sells or otherwise transfers its business or the real estate that is the situs of the violation referenced in this Order, then the Respondent shall cause as a condition of such sale or transfer, that the buyer will assume the obligations of the Respondent under this Order in writing. In such event, the Respondent shall provide thirty (30) days prior written notice of such assumption to the Department.

23. The Respondent agrees to comply with the Missouri Air Conservation Law and regulations and, in particular, to refrain from further violations of 10 CSR 10-6.060 and 10 CSR 10-6.065, for all future operations.

PENALTY

24. The Respondent agrees to a penalty in the amount of \$198,125, of which \$158,500 shall remain suspended on the condition that there are no violations of this Order, the Missouri Air Conservation Law, or its regulations during the two year period following the effective date of this Order. Failure to comply may result in the immediate imposition of the entire penalty amount.

25. The Respondent shall pay the remaining \$39,625 as an up-front penalty by **certified check** made payable to the "Jackson County Treasurer, as trustee for the Jackson County School Fund." Upon signing this Order, the Respondent shall mail such payment along with the signed Order to:

Accounting Program
Missouri Department of Natural Resources
P.O. Box 477
Jefferson City, MO 65102-0477

26. If the \$158,500 suspended penalty ever becomes due, then the Respondent shall pay it within 15 business days of written demand by the Department, by **certified check** made payable and delivered in the manner provided in the preceding paragraph.

OTHER PROVISIONS

27. This Order resolves the claims of the Department for the specific violations and concerns stated herein through the effective date of this Order.

28. The Department reserves all legal and equitable remedies available to enforce the provisions of this Order, except as stated in the previous paragraph. This

Order shall not be construed to limit the rights of the Department to obtain penalties or injunctive relief under the Clean Air Act, the Missouri Air Conservation Law or the implementing regulations, or under other federal or state laws, regulations, or permit conditions, except as expressly specified in the previous paragraph. The Department further reserves all legal and equitable remedies to address any imminent and substantial endangerment to the public health or welfare of the environment arising at, or posed by the Respondent, whether related to the violations addressed in this Order or otherwise.

29. By signing this Order, all signatories assert that they have read and understand the terms of this Order, that they had the opportunity to consult with counsel, and that they have the authority to sign this Order on behalf of their respective parties.

30. This Order shall be construed and enforced according to the laws of the State of Missouri, and the terms stated herein shall constitute the entire and exclusive agreement of the parties hereto with respect to the matters addressed herein. This Order may not be modified orally.

31. If any provision of this Order is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

32. Penalty payments under this Order, including any stipulated penalties, are penalties within the meaning of Section 162(f)(1) of the Internal Revenue Code, 26 U.S.C. § 162(f)(1), and 26 C.F.R. § 1.162-21(a)(3)(i). For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2)(iii)(A), certain costs incurred by performance of this Order may qualify as restitution, remediation, or costs

required to come into compliance with the law. **PETERSON MANUFACTURING COMPANY** is solely responsible for providing to the Department complete, accurate, and necessary information by the close of any applicable tax year to complete a Form 1098-F. Further, the Department shall not be responsible for any incomplete or inaccurate information nor the results of any tax audit. No portion of any penalties paid pursuant to this Order may be used to reduce any federal or state tax obligations, except as authorized by the Internal Revenue Service.

33. Nothing in this Order excuses the Respondent for any future non-compliance with the laws of the State of Missouri, and the Department expressly reserves the right to address future noncompliance in any manner authorized by law.

34. This Order will become final, effective, and fully enforceable upon the date the Department signs it. The Department shall send a fully executed copy of this Order to the Respondent for their records.

CORRESPONDENCE AND DOCUMENTATION

Correspondence or documentation with regard to this Order shall be directed to the following persons, subject to change upon written notification from either party:

For the Department:

Daniel Reed
Compliance and Enforcement Section
Air Pollution Control Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, MO 65102-0176

For the Respondent:

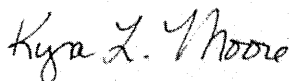
James Rash, Vice President
Peterson Manufacturing Company
4200 East 135th Street
Grandview, MO 64030

RIGHT OF APPEAL

By signing this Order, the Respondent waives any right to appeal, seek judicial review, or otherwise challenge this Order pursuant to Sections 643.130, 643.085, or 621.250, RSMo, Chapters 536, 643, or 640, RSMo, 10 CSR 10-1.030, or any other source of law.

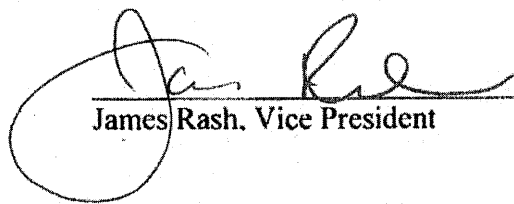
AGREED TO AND ORDERED:

**MISSOURI DEPARTMENT OF
NATURAL RESOURCES**



Kyra L. Moore, Director
Division of Environmental Quality

**PETERSON MANUFACTURING
COMPANY**



James Rash, Vice President

Date: 8/22/2024

Date: 8-7-24