

I. Lima Division

13. Respondent owns and operates a scrap metal recycling facility ("the facility") that is identified as the Lima Division. It is located at 1610 East 4th Street, Perry Township, Allen County, Ohio. The facility processes both ferrous and non-ferrous metals. These metals are hauled to and from the facility in large open bed trucks. The trucks travel on haul roads and a scale area inside the facility property. Fugitive dust is generated by the truck wheels on both paved and unpaved road surfaces on and off the facility property. The facility has two gates at East 4th Street, which is a public street immediately to the north of the facility. This public street is traversed by both company haul trucks as well as vehicles used by the general public. The facility is located in a non-Appendix A area with respect to the fugitive dust control requirements of OAC Rule 3745-17-08.

14. There are several residential homes near the facility and located on East 4th Street, Glenn Avenue, and Garland Avenue. Four of the homes are located on East 4th Street within 600 feet from one of the facility's gates; the closest is about 350 feet from the east gate. The haul trucks periodically may drag dirt from facility roadways onto East 4th Street, causing re-entrainment of fugitive dust from vehicles using this public street.

15. On February 22, 2006, August 16, 2006, and October 25, 2007, Ohio EPA, Division of Air Pollution Control, Northwest District Office ("NWDO") received complaints concerning excessive fugitive dust as a result of mud drag out from trucks exiting Respondent's facility onto East 4th Street.

16. In response to the complaints, NWDO representatives inspected the facility several times since February 2006. Dried mud was observed to have been deposited on East 4th Street from the trucks exiting the facility from the west gate. Visible emission ("VE") readings of the fugitive dust were conducted using U.S. EPA Reference Method 22 along East 4th Street in front of the facility. The following table shows the total time of VEs and the observation period for each date.

Date	Total time of VEs (minutes: seconds)	Observation period (minutes : seconds)
02/23/2006	10:45	22
08/18/2006	04:52	60
08/25/2006	07:33	60
10/30/2006	09:25	60
12/20/2006	01:58	60
05/09/2007	04:09	60
10/31/2007	05:12	60
04/30/2008	21:36	60
05/16/2008	03:36	60
05/23/2008	02:23	60

17. On April 30, 2008, NWDO distributed a survey to several residences in the neighborhood of Respondent's facility to assess whether the facility generated nuisance conditions. NWDO received completed surveys from eight different residents. Five of them are located on Glenn Avenue, two on East 4th Street, and one on Garland Avenue. The surveys detailed the following nuisance effects resulting from Respondent's operation of the facility:

- **Property damage (5 residents)**
The residents indicated that they get dust on their houses regularly, and they have to power wash their houses several times per year. Moreover, they need to wash their cars more often.
- **Adverse effect on the comfortable enjoyment of property (7 residents)**
The residents indicated that they can't sit outside and enjoy the outdoors the way they would like. Three of the residents indicated that they can't open the windows when the dust can reach their homes.
- **Public safety concerns (2 residents)**
It was indicated that the trucks deposit clumps of dirt onto the road and that is a hazard that could cause an accident.

NWDO also believes that it is a public safety concern at East 4th Street when the dust emissions are blowing and causing limited visibility. Additionally, since there is a railroad track along the west boundary of the facility, a safety hazard may exist if a train is coming.

18. By not implementing adequate measures to control fugitive dust from the facility, Respondent is causing a public nuisance in violation of OAC Rule 3745-15-07.

19. NWDO sent several Notice of Violation ("NOV") letters to Respondent. The following table shows the dates of the NOV letters as well as the dates of Respondent's responses to these letters.

NOV Date	Date Respondent's Response Received (Date of Response)
03/31/2006	05/03/2006 (05/01/2006)
09/07/2006	10/13/2006 (10/11/2006)
11/07/2006	NA
10/19/2007	11/23/2007 (11/21/2007)
05/07/2008	06/10/2008 (06/09/2008)

20. The NOV letter of March 31, 2006 cited Respondent for causing a public nuisance in violation of OAC Rule 3745-15-07, and requested Respondent to submit a compliance plan to control the fugitive dust and subsequently correct the nuisance problem. The following table summarizes several specific dates Respondent has caused a public nuisance in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G):

Date	Nuisance Type and Evidence
02/23/2006	<p>Property Damage: In response to the complaint received on February 22, 2006, a representative from NWDO visited the complainant's house and he observed an excessive amount of dust on the complainant's house (porch, siding and windows). He also observed the dust blowing from East 4th Street in the direction of the complainant's house. The complainant indicated that he washed his house three times per year as a result of this dust, using equipment that he bought for his own use. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 10 minutes and 45 seconds during a 22-minute observation period.</p>
08/18/2006	<p>Property Damage: In response to a complaint received on August 16, 2006, a representative from NWDO visited the complainant's house, and he confirmed that there was an excessive amount of dirt on the complainant's house. The complainant indicated that he has to power wash his house regularly as a result of this ongoing problem. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 4 minutes and 52 seconds during a 60-minute observation period.</p> <p>The NWDO representative informed the facility manager, Mr. David Dray, that the complainant has continuing concerns about the excessive dust emissions making his house dirty and that he has to power wash the house regularly. Mr. Dray indicated that they were aware of the complaints and had issued a purchase order for a sweeper to clean the concrete aprons inside the property, along with East 4th Street.</p>
10/31/2007	<p>Property Damage: In response to a complaint that was received on October 25, 2007, a representative from NWDO visited the complainant's house, and he observed an excessive amount of dust on the porch, windows, and siding. The complainant stated that he has to power wash his house regularly as a result of the excessive dust. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 5 minutes and 12 seconds during a 60-minute observation period.</p>
04/30/2008	<p>Property Damage: A representative from NWDO visited the complainant's house to follow up on a nuisance complaint. The complainant stated that the nuisance still exists and that he already power washed his house once this year. He indicated that he has been power washing his house three times per year, and he was concerned about water getting into the house insulation</p>

	<p>underneath the siding because of the high pressure (1,200 pounds per square inch). NWDO representatives took pictures of the dust accumulation on the porch and windows of the complainant's house as well as equipment in the garage. The representative also completed a videotaping that shows dust blowing in the direction of the complainant's house coming from East 4th Street.</p> <p>The NWDO distributed a dust nuisance survey in the neighborhood. In the responses to the dust nuisance survey, it was indicated by 4 residents, in addition to the complainant, that they get dust on their houses regularly and they have to power wash their houses several times per year. They also indicated that they need to wash their cars more often. VE readings were conducted along East 4th Street, close to the complainant's house, using Method 22, and fugitive dust was visible for 21 minutes and 36 seconds during a 60-minute observation period.</p> <p>Public Welfare: In the dust nuisance survey, it was indicated by 7 residents that they can't sit outside and enjoy the outdoors the way they would like. Also they indicated that they can't open the windows when the dust reaches their homes.</p> <p>Public Safety: In the dust nuisance survey, it also was indicated by 2 residents that the clumps of dirt deposited by the trucks onto East 4th Street create hazardous conditions that could cause an accident.</p>
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21. On April 30, 2008, NWDO representatives noticed that the existing tire grate system has minimal use. Most haul trucks were observed exiting the facility without using the system.

22. In the June 10, 2008 response to the NOV of May 7, 2008, Respondent indicated that at the time of NWDO's inspection there was significant traffic on the haul roads and on East 4th Street which did not allow these areas to be swept or watered. Respondent suggested changing the traffic patterns within the yard to allow for sweeping and watering more frequently.

23. Respondent is currently implementing the following measures to reduce mud drag out and the subsequent fugitive dust emissions.

Measure	Purpose	Start Date
Sentinel Vacuum Sweeper	To remove dirt from concrete apron areas on the facility and from East 4th Street.	09/25/2006
Tire thumper at scale	To remove mud attached to trucks tires before exiting the facility and subsequently reduce/eliminate mud drag out to East 4 th Street.	09/01/2008
Changed Traffic patterns	To increase the frequency of sweeping and to force vehicles to use the tire grate.	06/01/2008
Water Truck	To water unpaved and paved haul roads on the facility.	NA
Improved traffic surfaces inside yard	To cover unpaved roadways and subsequently prevent mud creation after rain events.	06/01/2008

II. St. Marys Division

24. Respondent's St. Marys facility ("the facility") is located at 4575 CR 33A, in St. Marys Township, Auglaize County, Ohio. It is a metal scrap recycling facility that processes both ferrous and non-ferrous metals. The vast majority of the material enters and leaves the facility by heavy trucks. The metals are sorted on site and then resold to the steel industry and foundries. The facility is located in a non-Appendix A area.

25. Respondent purchased the St. Marys facility from St. Marys Iron & Steel Corporation in 1989. The processes and activities conducted by St. Marys Iron & Steel Corporation included the use of conventional torches to cut various scrap metal commodities. Respondent continued to use the conventional torch cutting process after purchasing the business and facility from St. Marys Iron & Steel Corporation. Respondent began utilizing a jet torch on or around March 2003.

Violations Concerning the Emissions from the Jet Torches

26. On June 28, 2004, NWDO received a complaint concerning the torch cutting plume from Respondent's facility as well as a few recent fires that the fire department was called out on.

27. On July 7, 2004, in response to the complaint, NWDO inspected Respondent's St. Marys facility. It was determined that Respondent held no permit for the torches. NWDO inspectors witnessed a small fire from cutting a forklift using the torch. The forklift had oil on the engine, rubber hoses, and plastic wire casing.

28. On October 26, 2005, NWDO received a complaint concerning the ongoing smoke from Respondent's St. Marys facility. The complainant stated that there are many days when a thick yellow cloud was darkening the sky above Respondent's St. Marys facility as a result of the torch cutting process.

29. On December 14, 2005, NWDO sent a letter to Respondent. The letter stated that NWDO determined that each torch is an "air contaminant source;" therefore, Respondent is required to apply for the appropriate permits in accordance with OAC Rule 3745-31-02 and OAC Rule 3745-35-02.

30. On March 20, 2006, Respondent's response to the letter of December 14, 2005 was received by NWDO. Respondent indicated that the facility was acquired in 1989 from St. Marys Iron & Steel Corporation. Respondent stated that it operated the conventional torches since 1989; however, in March 2003 Respondent began utilizing the jet torches.

31. On May 11, 2006, NWDO sent a NOV to Respondent. The NOV stated that the change to the jet torches in March 2003, constituted a "modification" to the operation as defined in OAC Rule 3745-31-01(PPP). Respondent violated OAC Rule 3745-31-02 and OAC Rule 3745-35-02 by installing and operating the jet torches prior to obtaining a PTI and PTOs. The NOV also requested Respondent to control emissions from this operation such that visible emissions do not exceed 20% opacity as a 3-minute average. The PTI application was received on May 19, 2008, and the PTIO was issued August 6, 2009.

32. On June 9, 2006, NWDO received Respondent's response to the NOV of May 11, 2006. Respondent believed that "de minimis" may apply to the jet torching operation. Respondent requested an additional 90 days to submit the PTI application.

33. On August 11, 2006, NWDO received a complaint concerning very thick smoke from Respondent's St. Marys facility.

34. On September 19, 2006, NWDO met with Respondent to discuss a control system for the torch. Respondent indicated that they purchased a "dust boss" (water misting system) as an interim control measure while continuing to work on a permanent control system and the permit applications.

35. On December 21, 2006, Respondent met with NWDO, and it was indicated that a budget had been approved for a portable 3-sided enclosure with a baghouse for the torch.

36. On January 19, 2007, NWDO received a complaint concerning the continued smoke from the torch cutting process. In response to this complaint, NWDO visited the site on January 24, 2007 and noticed a large plume as a result of the torch cutting process.

37. On February 1, 2007, a representative from NWDO was in the area on other business and noticed the generation of a large plume of varying colors from the torch cutting process.

38. On April 20, 2007, NWDO visited the facility and a fire resulting from using the torch to cut a mobile home roof was observed upon arrival. In response, a NOV was