

BEFORE THE ENVIRONMENTAL REVIEW APPEALS COMMISSION
STATE OF OHIO

SCHMELZER INDUSTRIES, INC., : Case No. ERAC 14-646809
: :
Appellant, : :
: :
v. : :
: :
CRAIG BUTLER, DIRECTOR OF : :
ENVIRONMENTAL PROTECTION, : :
: :
Appellee. : :

RULING ON MOTIONS FOR SUMMARY JUDGMENT

Rendered on August 13, 2014

Robert L. Brubaker and Eric B. Gallon for Appellant
Schmelzer Industries, Inc.

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Alana R. Shockey* for Appellee Craig Butler, Director of
Environmental Protection

{¶1} This matter comes before the Environmental Review Appeals Commission (“Commission,” “ERAC”) on a Notice of Appeal filed by Appellant Schmelzer Industries, Inc. (“Schmelzer”) on January 30, 2014. Schmelzer’s appeal challenges certain terms and conditions of Federally Enforceable Permit-to-Install and Operate (“FEPTIO”) number P0109673 issued to Schmelzer by Appellee Craig Butler, Director of Environmental Protection (“Director,” “Ohio EPA,” “Agency”) on December 31, 2013. Case File Item A.

{¶2} On June 4, 2014, Schmelzer filed a Motion for Summary Judgment Vacating Unlawful Requirements in the FEPTIO of Appellant Schmelzer Industries, Inc. (“Schmelzer’s Motion”), arguing the Director unlawfully imposed certain terms and

conditions in Schmelzer's FEPTIO restricting the emission of organic materials. Schmelzer contends that its facility falls within the scope of Ohio Administrative Code ("Adm.Code") 3745-21-07(M)(5)(g) and is thus exempt from the organic materials emissions regulations upon which the terms and conditions at issue in this appeal are based. Case File Item J.

{¶3} On June 9, 2014, the Director filed Appellee Director's Motion for Summary Judgment ("Director's Motion"). The Director argues that, contrary to Schmelzer's assertion, the exemption contained in Ohio Adm.Code 3745-21-07(M)(5)(g) does not apply to Schmelzer's facility because the facility is a new, rather than existing, source of air emissions. Case File Item K.

{¶4} The parties filed responses to the motions for summary judgment on June 24, 2014. And on July 7, 2014, the parties filed their respective replies. Case File Items L, M, N, O.

{¶5} Based upon a review of the pleadings and the relevant statutes, regulations, and case law, the Commission issues the following Findings of Fact, Conclusions of Law, and Final Order GRANTING Schmelzer's Motion for Summary Judgment, DENYING the Director's Motion for Summary Judgment, and REMANDING FEPTIO number PO109673 to the Director.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶6} Schmelzer operates a glass fiber manufacturing facility located at 7970 Wesley Chapel Road, Somerset, Perry County, Ohio 43783. Its facility houses nine emissions units. Construction of emissions units P001, K001, K002, K003, K004, K005, K006, and K007 began in 1985, and construction of emissions unit K008 began 2003. Case File Items J, K.

{¶7} In Schmelzer's FEPTIO, the Director imposed several terms and conditions based upon the requirements of Ohio Adm.Code 3745-21-07(M)(4). Specifically, the parties do not dispute that FEPTIO Section C.1.b.1.a, Section C.1.b.1.f, Section C.1.f.1.a, Section C.1.b.2.b, Section C.1.e.3, and Section C.1.f.1.e are based, at least in part, on Ohio Adm.Code 3745-21-07(M)(4). Case File Items J, K.

{¶8} Ohio Adm.Code 3745-21-07(M)(4) sets forth organic materials emissions regulations applicable to certain types of facilities. The regulation states in pertinent part as follows:

*(4) Except as provided in paragraph (M)(5) of this rule, this paragraph applies to all existing sources located within a "Priority I" county, as identified in rule 3745-21-06 of the Administrative Code, and to all new sources, as defined in rule 3745-15-01 of the Administrative Code, regardless of location, for which installation commenced prior to the effective date of this rule. The owner or operator * * * of each article, machine, equipment or other contrivance in which any liquid organic material or substance containing liquid organic material comes into contact with flame or is baked, heat-cured, or heat-polymerized, in the presence of oxygen * * * shall not discharge from such source more than fifteen pounds of organic materials into the atmosphere in any one day, nor more than three pounds in any one hour, unless said discharge has been reduced by at least eighty-five per cent, by weight. * * **

Ohio Adm.Code 3745-21-07(M)(4)(emphasis added).

{¶9} Schmelzer argues that although its facility would otherwise be subject to the provisions of Ohio Adm.Code 3745-21-07(M)(4), the facility is exempt from the requirement, pursuant to Ohio Adm.Code 3745-21-07(M)(5)(g), because the facility is located in Perry County and has a potential to emit not more than one hundred tons of organic compounds per year. Case File Item J.

{¶10} The relevant exemption provides as follows:

(5) Exemptions.

(g) The provisions of paragraphs (M)(3)(a), (M)(3)(b), (M)(3)(g) and (M)(4) of this rule shall not apply to sources that are located in Darke,

Fairfield, Madison, *Perry*, Pickaway, Preble or Union county and that are within a facility having the potential to emit not more than one hundred tons of organic compounds per calendar year.

Ohio Adm.Code 3745-21-07(M)(5)(g) (emphasis added).

{¶11} In a stipulation filed with the Commission on May 21, 2014, the parties agreed that Schmelzer’s facility “has the potential to emit not more than one hundred tons of organic compounds per year.” And further, the parties do not dispute that the facility is located within Perry County. See Case File Items H, J, K.

{¶12} Instead, the key issue the parties dispute is the interpretation of the term “sources,” as used in Ohio Adm.Code 3745-21-07(M)(5)(g).

{¶13} In his Motion, the Director argues, that in context with other, related regulations, the term “sources” is intended to refer only to “existing sources” of air pollution. Moreover, the Director argues that because each of the emissions units at Schmelzer’s facility was constructed after 1972,¹ they are “new” rather than “existing” sources of air pollution. Thus, the Director concludes that the exemption contained in Ohio Adm.Code 3745-21-07(M)(5)(g) is inapplicable to Schmelzer’s facility. Case File Item K.

{¶14} In support of the Agency’s interpretation of “sources,” the Director notes that “Priority I” counties are the most industrialized counties in Ohio. Accordingly, the Director argues that Ohio Adm.Code 3745-21-07(M)(4) generally imposes *more* stringent requirements on facilities located within Priority I counties. Specifically, the regulation states that the organic materials emissions restrictions are applicable to both existing *and* new sources within Priority I counties. By contrast, in non-Priority I

¹ See Ohio Adm.Code 3745-15-01(P) and (S).

counties, the organic materials emissions restrictions apply only to new sources of air pollution. Case File Item K, L, N.

{¶15} The Director observes that the exempt counties listed in Ohio Adm.Code 3745-21-07(M)(5)(g) are also Priority I counties. Thus, the Director contends it would be inconsistent with the overall regulatory scheme under Ohio Adm.Code 3745-21-07(M)(4) to exempt *all* sources of air pollution—both new and existing—within a subset of the Priority I counties. Such an interpretation, the Director maintains, would result in certain Priority I counties being subject to *less* stringent requirements than even the non-Priority I counties throughout Ohio. Case File K, L, N.

{¶16} Additionally, the Director contends that since 2004, when the Agency “corrected”² its interpretation of Ohio Adm.Code 3745-21-07(M)(5)(g), Ohio EPA has consistently interpreted the regulation to exempt only “existing sources,” and correspondingly imposed organic materials emissions limitations on *new* sources located within exempt counties. The Director suggests that because the term “sources” is subject to multiple interpretations, the Agency’s interpretation is entitled to deference. The Director argues that Ohio EPA must have the flexibility to correct past

² In his memorandum in opposition to Schmelzer’s Motion, the Director acknowledged that a prior permit for Schmelzer’s facility, issued September 25, 2003, granted Schmelzer an exemption from the organic materials emissions restrictions. Specifically, the Director’s response states, “[b]efore its final issuance, Ms. Harter spoke with Jim Orlemann, an Assistant Chief of Ohio EPA’s Division of Air Pollution Control, on September 3, 2003. * * * Mr. Orlemann confirmed that Ohio EPA’s interpretation of Ohio Adm.Code 3745-21-07(A)(2)(c) exempted Schmelzer’s glass fiber spinning emissions units from the rule’s emissions limits.”

However, the Director then explains that “less than a year later, Mr. Orlemann recognized Ohio EPA’s mistake and on April 19, 2004, he advised Ms. Harter that Ohio EPA had revised the interpretation of Ohio Adm.Code 3745-21-07(A)(2)(c) applicable to Schmelzer’s 2003 permit because the exemption applies only to existing sources in Perry, Darke, Fairfield, Madison, Pickaway, Preble, and Union Counties.”

Thus, the Commission notes that Ohio EPA’s “correction” of its interpretation of the exemption provision was an entirely informal, internal process. The Agency did not seek to amend the rule, nor engage in any other formal process before simply changing its position.

misinterpretations of its governing regulations to prevent unreasonable results and ensure regulatory certainty. Case File Item K, L, N.

{¶17} By contrast, Schmelzer argues that “sources” means all sources—both new and existing. Schmelzer contends that Ohio Adm.Code 3745-21-07(M)(5)(g) grants a blanket exemption from the organic materials emissions regulations contained in Ohio Adm.Code 3745-21-07(M)(4) to all facilities located within Darke, Fairfield, Madison, Perry, Pickaway, Preble or Union counties that have a potential to emit of not more than 100 tons of organic compounds per year. Case File Item J.

{¶18} Schmelzer argues that the plain language of Ohio Adm.Code 3745-21-07(M)(5)(g)—and specifically the term “sources”—is unambiguous, and thus the Agency’s interpretation is not entitled to deference. In essence, Schmelzer argues that the language of the regulation is explicit, and therefore no “contextual” reading is necessary or appropriate to ascertain its meaning. Case File Item K.

{¶19} Additionally, Schmelzer notes that the terms “existing sources” and “new sources” are independently defined in Ohio Adm.Code Chapter 3745-15 [Definitions.], and that other subsections of Ohio Adm.Code 3745-21-07, including subsection (M)(4), expressly distinguish between “existing sources” and “new sources.” Thus, Schmelzer argues the Agency employed precise language to distinguish between “existing sources” and “new sources,” but when drafting the exemption contained in Ohio Adm.Code 3745-21-07(M)(5)(g), the Agency simply declined to do so. Case File Item M.

{¶20} Because the parties have stipulated that Schmelzer’s facility has a potential to emit less than 100 tons per year and do not dispute that Schmelzer’s facility is located within Perry County, Schmelzer contends that the Director unlawfully

interpreted and applied Ohio Adm.Code 3745-21-07(M)(4) and (M)(5)(g) when including certain terms and conditions in Schmelzer's FEPTIO. Case File Item K.

I. Summary Judgment Standard

{¶21} Although not strictly bound by the Ohio Rules of Civil Procedure ("Civ.R."), the Commission has historically applied the civil rules when appropriate to assist in resolution of appeals. *Meuhlfeld v. Boggs*, ERAC No. 356228 (Mar. 17, 2010).

{¶22} Civ.R. 56(C) states in pertinent part:

* * * Summary judgment shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, written admissions, affidavits, transcripts of evidence, and written stipulations of fact, if any, timely filed in the action, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law * * *

{¶23} Thus, under Civ.R. 56, "[t]he moving party has the burden of showing that there is no genuine issue as to any material fact as to critical issues." *Stockdale v. Baba*, 153 Ohio App.3d 712, 2003-Ohio-4366, 795 N.E.2d 727, at ¶23. However, "an adverse party may not rest upon the mere allegations or denials of his pleadings, but his response * * * must set forth specific facts showing that there is a genuine issue for trial." *Harless v. Willis Day Warehousing Co.*, 54 Ohio St.2d 64, 65 (1978). All doubts and evidence should be construed against the moving party, and "[s]ummary judgment may not be rendered unless it appears that reasonable minds can come to but one conclusion and that conclusion is adverse to the part[y] against whom [the] motion is made." *Stockdale*, 2003-Ohio-4366, at ¶32.

{¶24} "If the moving party has satisfied its initial burden under Civ.R. 56(C), then the nonmoving party has a reciprocal burden * * * to set forth specific facts showing that there is a genuine issue for trial. If the nonmovant does not so respond, summary judgment, if appropriate, shall be entered against the nonmoving party." *State*

v. Pryor, Franklin App. No. 07AP-90, 2007 Ohio 4275 (Aug. 21, 2007), citing *Dresher v. Burt*, 75 Ohio St.3d 280, 293, 662 N.E.2d 264 (1996).

II. ERAC Standard of Review

{¶25} Revised Code 3745.05 sets forth the standard ERAC must employ when reviewing a final action of the Director. The statute provides in relevant part as follows:

If, upon completion of the hearing, the commission finds that the action appealed from was lawful and reasonable, it shall make a written order affirming the action, or if the commission finds that the action was unreasonable or unlawful, it shall make a written order vacating or modifying the action appealed from.

R.C. 3745.05.

{¶26} The term “unlawful” means “that which is not in accordance with law,” and the term “unreasonable” means “that which is not in accordance with reason, or that which has no factual foundation.” *Citizens Committee to Preserve Lake Logan v. Williams*, 56 Ohio App.2d 61, 70 (10th Dist. 1977).

{¶27} The Commission is required to grant “due deference to the Director’s ‘reasonable interpretation of the legislative scheme governing his Agency.’” *Sandusky Dock Corp. v. Jones*, 106 Ohio St.3d 274 (2005), citing *Northwestern Ohio Bldg. & Constr. Trades Council v. Conrad*, 92 Ohio St.3d 282 (2001); *State ex rel. Celebrezze v. National Lime & Stone Co.*, 68 Ohio St. 3d 377 (1994); *North Sanitary Landfill, Inc. v. Nichols*, 14 Ohio App. 3d 331 (2nd Dist. 1984). Administrative agencies possess special expertise in specific areas and are tasked with implementing particular statutes and regulations. *National Wildlife Federation v. Korleski*, 2013-Ohio-3923 (10th Dist. 2013), ¶56. Thus, such agencies are entitled to considerable deference when reviewing their interpretation of their own governing rules and regulations. *Id.*

{¶28} Deference granted to an agency's interpretation of its administrative regulations is not, however, without limits. See e.g., *B.P. Exploration and Oil, Inc. v. Jones*, ERAC Nos. 184134-36 (March 21, 2001). The Commission has consistently held that an agency's interpretation of its governing statutes and regulations must not be "at variance with the explicit language of the [statutes or] regulations." *Id.*

{¶29} Further, the Commission's standard of review does not permit ERAC to substitute its judgment for that of the Director as to factual issues, and it is well-settled that there is a degree of deference for the agency's determination inherent in the reasonableness standard. *National Wildlife Federation v. Korleski*, 2013-Ohio-3923 (10th Dist. 2013), ¶48. "It is only where [ERAC] can properly find from the evidence that there is no valid factual foundation for the Director's action that such action can be found to be unreasonable." *Citizens Committee to Preserve Lake Logan v. Williams*, 56 Ohio App.2d 61, 70 (10th Dist. 1977). Accordingly, "the ultimate factual issue to be determined by [ERAC] upon the de novo hearing is whether there is a valid factual foundation for the Director's action and not whether the Director's action is the best or most appropriate action, nor whether [ERAC] would have taken the same action." *Id.*

{¶30} Similar to the deference afforded the Director's regarding interpretation of administrative regulations, deference toward an agency's factual determinations is also not unlimited. Instead, the Commission engages in "a limited weighing of the evidence." *Ohio Fresh Eggs, LLC v. Wise*, 2008-Ohio-2423, (10th Dist. App. 2008), ¶32 (emphasis added). Specifically, "ERAC must determine whether the evidence is of such quantity and quality that it provides a sound support for the Director's action." *Id.*

III. Discussion

{¶31} The Commission finds that Section C.1.b.1.a, Section C.1.b.1.f, Section C.1.f.1.a, Section C.1.b.2.b, Section C.1.e.3, and Section C.1.f.1.e of Schmelzer's FEPTIO unlawfully impose restrictions based upon the organic materials emissions restrictions contained in Ohio Adm.Code 3745-21-07(M)(4). The Director's interpretation of the exemption in Ohio Adm.Code 3745-21-07(M)(5)(g) is inconsistent with the plain language of the regulation. Further, the Commission finds that the application of the plain language of Ohio Adm.Code 3745-21-07(M)(5)(g) to the undisputed facts in this appeal results in the conclusion that Schmelzer's facility is exempt from the requirements of Ohio Adm.Code 3745-21-07(M)(4).

A. The Director's Interpretation of Ohio Adm.Code 3745-21-07(M)(5)(g)

{¶32} As an initial matter, the Commission acknowledges that Ohio EPA may possess a valid policy justification for seeking to exclude new sources of air pollution from the scope of the exemption contained in Ohio Adm.Code 3745-21-07(M)(5)(g). Further, the Commission recognizes that each county listed in Ohio Adm.Code 3745-21-07(M)(5)(g) is a Priority I county, and thus, the Agency may reasonably conclude that it is sound policy to subject new sources of air pollution in those counties to the organic materials emissions requirements contained in Ohio Adm.Code 3745-21-07(M)(4).

{¶33} Nonetheless, an agency's interpretation of its governing regulations must not conflict with the plain language of the rule. See e.g., *B.P. Exploration and Oil, Inc. v. Jones*, ERAC Nos. 184134-36 (March 21, 2001). Here, the Commission finds the Director's action unlawful because Ohio EPA's interpretation of the term "sources," as used in Ohio Adm.Code 3745-21-07(M)(5)(g), conflicts with the plain language of the regulation. The terms "existing source," "new source," and "source" are each expressly

defined by the Ohio Administrative Code, and significantly, the definition of the term “source” unambiguously includes both new *and* existing sources of air pollution.

{¶34} The term “existing source” is defined as “any source the construction of which was commenced prior to February 15, 1972.” Ohio Adm.Code 3745-15-01(P).³

{¶35} Correspondingly, “new source” is defined as “any source the construction or modification of which is commenced on or after February 15, 1972.” Ohio Adm.Code 3745-15-01(S).

{¶36} By contrast, the definition of “sources” is comparatively broad. “Source” means any building, structure, facility, operation, installation, other physical facility, or real or personal property that emits or may emit any air pollutant.” Ohio Adm.Code 3745-15-01(X). Significantly, the term “source,” as defined in this section, lacks a temporal modifier such as “existing” or “new.” Accordingly, the Commission finds, based on the absence of the modifier “existing” or “new,” the term “source” includes both existing *and* new sources of air pollution.

{¶37} Thus, as used in Ohio Adm.Code 3745-21-07(M)(5)(g), the Commission finds the term “sources” unambiguously encompasses both existing *and* new sources of air pollution.⁴ And, therefore, the Commission concludes that the Director’s

³ Pursuant to Ohio Adm.Code 3745-21-01(A), the definitions contained in Ohio Adm.Code 3745-15-01 are applicable to Ohio Adm.Code Chapter 3745-21.

⁴ The Commission acknowledges the Director’s concern that an expansive interpretation of the term “sources” may negate other, relevant distinctions between types of sources. For example, the Director postulates that Schmelzer’s expansive interpretation of “sources” would necessitate the application of Ohio Adm.Code 3745-21-07 to both stationary and portable sources of air pollution—a result which would conflict with the title of the regulation (“Control of emissions of organic materials from stationary sources * * *”).

The Commission notes that the specific facts in this appeal involve only the distinction between new and existing sources of air pollution. Accordingly, it is unnecessary to reach the issue of how the term “sources” might be applied with regard to the distinction between stationary and portable sources (or any other type of distinction not at issue in this appeal), and the Commission declines to do so.

interpretation of that term, which includes only existing sources, conflicts with the plain language of the regulation.

{¶38} Significantly, interpreting the term “sources” to include both existing *and* new sources of air pollution is consistent with the term’s use elsewhere in Ohio Adm.Code 3745-21-07. For example, the first sentence of Ohio Adm.Code 3745-21-07(M)(4) sets out the distinct scenarios in which organic materials emissions restrictions are applicable to existing and new sources, stating as follows:

* * * Except as provided in paragraph (M)(5) of this rule, this paragraph *applies to all existing sources* located within a "Priority I" county, as identified in rule 3745-21-06 of the Administrative Code, *and to all new sources*, as defined in rule 3745-15-01 of the Administrative Code, regardless of location, for which installation commenced prior to the effective date of this rule.

(Emphasis added).

{¶39} The second sentence states that an owner or operator “shall not discharge *from such source* more than fifteen pounds of organic materials into the atmosphere in any one day, nor more than three pounds in any one hour, unless said discharge has been reduced by at least eighty-five per cent, by weight.” Ohio Adm.Code 3745-21-07(M)(4) (emphasis added). In this context, it is clear the term “source,” as used in the second sentence of Ohio Adm.Code 3745-21-07(M)(4), unequivocally includes both new and existing sources of air pollution.

{¶40} The Commission acknowledges Ohio EPA’s concern regarding agency flexibility when interpreting its own regulations. Thus, nothing in this opinion is intended to restrict the Agency’s ability to either amend its regulations to clarify their intended meaning or to restrict the Agency’s ability to correct past practices that conflict with the express language of its regulations.

{¶41} But, while agencies are entitled to deference regarding the interpretation of their governing regulations, such deference is not without limits, and an agency's interpretation of its regulations must not conflict with the express language of the rule. *B.P. Exploration and Oil, Inc. v. Jones*, ERAC Nos. 184134-36 (March 21, 2001).

{¶42} Here, the Commission simply finds that Ohio EPA's (post-2004) interpretation of the term "sources," as applied to Ohio Adm.Code 3745-21-07(M)(5)(g), conflicts with the express language of the regulation because the term "sources" unambiguously includes both existing and new sources of air pollution.

B. Application of the plain language of Ohio Adm.Code 3745-21-07(M)(5)(g) to the undisputed facts regarding Schmelzer's facility

{¶43} Having found that the term "sources" unambiguously includes both existing and new sources of air pollution, the Commission now turns to the application of the regulation to Schmelzer's facility.

{¶44} Ohio Adm.Code 3745-21-07(M)(5)(g) states as follows:

(5) Exemptions.

(g) The provisions of paragraphs (M)(3)(a), (M)(3)(b), (M)(3)(g) and (M)(4) of this rule shall not apply to sources that are located in Darke, Fairfield, Madison, *Perry*, Pickaway, Preble or Union county and that are within a facility having the potential to emit not more than one hundred tons of organic compounds per calendar year.

(Emphasis added).

{¶45} Thus, a facility is exempt from the requirements of Ohio Adm.Code 3745-21-07(M)(4) if (a) it is located in Darke, Fairfield, Madison, *Perry*, Pickaway, Preble or Union county; and (b) it has a potential to emit of not more than one hundred tons of organic compounds per year.

{¶46} Here, the parties stipulated that Schmelzer's facility "has the potential to emit not more than one hundred tons of organic compounds per year," and the parties do not dispute that Schmelzer's facility is located within Perry County.

{¶47} Accordingly, the Commission finds that Schmelzer's facility falls within the scope of Ohio Adm.Code 3745-21-07(M)(5)(g) and is therefore exempt from the requirements of Ohio Adm.Code 3745-21-07(M)(4).

C. Conclusion

{¶48} As noted above, the parties do not dispute that Section C.1.b.1.a, Section C.1.b.1.f, Section C.1.f.1.a, Section C.1.b.2.b, Section C.1.e.3, and Section C.1.f.1.e of Schmelzer's FEPTIO are based, at least in part, upon Ohio Adm.Code 3745-21-07(M)(4).

{¶49} Thus, having found that Schmelzer's facility is exempt from the requirements of Ohio Adm.Code 3745-21-07(M)(4), the Commission finds that the Director acted unlawfully by including the above-mentioned terms and conditions in Schmelzer's FEPTIO.

FINAL ORDER

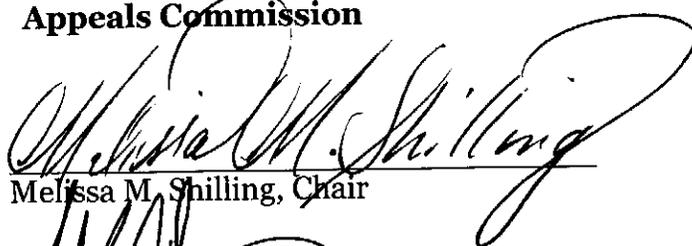
{¶50} For the foregoing reasons, the Commission hereby GRANTS Schmelzer’s Motion for Summary Judgment and DENIES the Director’s Motion for Summary Judgment.

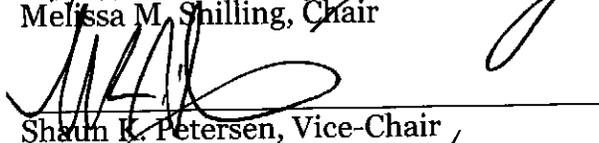
{¶51} The Commission hereby REMANDS FEPTIO number P0109673 to the Director for action consistent with this ruling.

{¶52} In accordance with Ohio Adm.Code 3746-13-01, the Commission informs the parties of the following:

Any party adversely affected by an order of the commission may appeal to the court of appeals of Franklin County, or, if the appeal arises from an alleged violation of a law or regulation, to the court of appeals of the district in which the violation was alleged to have occurred. The party so appealing shall file with the commission a notice of appeal designating the order from which an appeal is being taken. A copy of such notice shall also be filed by the appellant with the court, and a copy shall be sent by certified mail to the director or other statutory agency. Such notices shall be filed and mailed within thirty days after the date upon which appellant received notice from the commission of the issuance of the order. No appeal bond shall be required to make an appeal effective.

The Environmental Review Appeals Commission


Melissa M. Shilling, Chair


Shaun K. Petersen, Vice-Chair


Michael G. Verich, Member

Entered into the Journal of the Commission this 13th day of August 2014.

Copies Sent to:

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