

Town of Orangetown

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John W. Petronella
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July 6, 2017

Subject: Negative Public Comment to Proposed DRAFT/MOD 1 ASF Permit
NYSDEC ID # 3-3924-00190/0006 - Aluf Plastics Division

Dear Mr. Petronella:

The Town of Orangetown hereby responds to, and comments on, the above referenced publically-issued draft Air State Facility (ASF) permit for Aluf Plastics Division.

The facility was initially (air) permitted on or about November 2005 under a registration. Four years ago (January 2013), Aluf was ASF permitted by NYSDEC primarily on the merit of meeting a generic particulate standard. There was no consent order then as there is now, but a *“remedial measure”* compliance plan was to be met by end of May 2013 to: ***attenuate opacity and nuisance odors, and meet an intermediate milestone to installing filtration and carbon adsorption emission controls.*** The permit contains no indication how emissions would be measured as being successfully compliant, since particulate testing was at the discretion of the Department (we have seen no indication that NYSDEC ever required such testing), nor how inline filtration and carbon adsorption would be considered successfully operational.

Clearly, Aluf has not attenuated nuisance odors – even during this current permit review period problems persist. After many Town grievances, individual complaints, extensive media coverage, and subsequent confirmation by NYSDEC, a December 2016 Consent Order legally binds Aluf to *changes* reflected in the [draft] revised air permit. **We feel the permit as it stands is incomplete, and that the comment period should be extended** until the air emissions test results are complete, and documents promised to the Town have been received and reviewed by all concerned. We anticipate the need for a public hearing to resolve all issues.

Aluf was to submit a report and scope of work by mid-January 2017. Some of our comments are based on a DRAFT January 2017 report by Korlipara Engineering: "*ENGINEERING INVESTIGATION OF AIR EMISSIONS CONTROLS AT ALUF PLASTICS AND IDENTIFICATION OF REMEDIAL ACTIONS FOR THEIR ENHANCEMENTS.*"

The Consent Order sets the scope of work schedule to be implemented [immediately], once the report is approved by the Department. Since we have seen neither a 'final' Korlipara report or a NYSDEC approval, we assume the Department's implicit approval of the Korlipara report was made when the 30-day public comment period began June 7, 2017. Pending no negative findings or public hearings, a permit is generally finalized shortly after the end of the public comment period. Within 60 days Aluf is to institute the changes reflected in the revised permit – assuming the revised permit has been issued.

People today have more sophisticated awareness of industrial pollution problems, and have lists of concerns. Like news-worthy, on-going groundwater contamination concerns in Hoosick Falls, Newburgh, and Vermont, people want to know:

- "what chemicals in particular?"
- "how long was I exposed?"
- "how strong is the stuff?"
- "to what degree should I be concerned and about what?"
- "how will you convince me all is OK?"

Responses to these issues to assure the public should be reflected in the permit.

We have the following specific comments:

1. The 'current/existing' permit conditions that commit to a not-to-exceed threshold of *0.050 grains particulate per cubic foot of exhaust gas* have all been expired in the draft permit. We understand NYSDEC-approved facility air emission testing by an Aluf contractor was performed June 26/27, though neither particulate matter as either "PM" using EPA Reference Method 5 (or equivalent), nor a more respirable fraction as "PM-10", was in the test protocol.

Condition # 3 (6 NYCRR 211.1) and Condition # 12 (6 NYCRR 211.2) do not appear in the revised permit and no longer appear to be components of New York's State Implementation Plan (SIP; 13974, Federal Register/ Vol. 77, No. 46 /March 8, 2012), nor do they appear in the "*State Only Enforceable Conditions*", so in addition to the deletion of the former particulate (0.05 grains/cubic foot) standard, there is no generic prohibition of air pollution or visible emission/opacity limitations, respectively. We feel they should be part of the permit.

Given the history of the facility we feel that particulate testing should provide a baseline going forward, since it is not unreasonable to assume that some emissions may be linked to particulate adsorption.

2. The "**Contaminant List**" of Draft Permit Condition 8 lists "*no contaminants*" when referring to:

*“Emissions of the following contaminants are subject to **contaminant specific requirements** in this permit (emission limits, control requirements or compliance monitoring conditions”.*

Please explain the apparent contradiction between the obvious need and benefits of measuring contaminants through stack testing and the Draft Permit’s silence on which contaminants are to be measured and monitored for compliance with the permit.

Though the basis for the upcoming air testing is not clear, it is welcome, and the list of analytes is extensive for volatile organic compounds (VOCs), aldehydes and ketones, and numerous other chemicals. If requirements are *contaminant-specific* then this testing should determine if there are any specific contaminants, both toward human health AND nuisance. Albeit, some may be low and insignificant, but these test results now serve as the baseline for going forward – and results must be compared against contemporary published odor standards, regulatory standards and guidance before the permit becomes final. Please inform us as to the basis of the ‘required’ stack performance testing.

Please identify the proposed Montrose AQS sampling locations by their respective permit emission points.

Aluf’s late June performance testing has a 60-day requirement (by late August) to submit the final report to NYSDEC. The modified draft permit should not be approved until test results have been made public and evaluated by all parties, and agreement reached to move forward pending addition of any new permit-related contaminants. Please extend the comment period until the air emissions results are complete and have been reviewed by all concerned.

3. The draft permit lists several mechanical and technical infrastructure changes for particulate removal and carbon filtration, in accordance with good engineering practice and engineering specification, weekly inspections, filter replacement when need, scheduled maintenance, and record keeping, but reporting is only at the request of NYSDEC. We feel more routine submittal reports are called for.
4. There is no reference in the modified permit to the current Consent Order, which we feel should be incorporated as the driving force behind compliance. The Consent Order calls for:

“Every two weeks thereafter, a progress report shall be submitted to the Department reporting progress until one year after all remedial measures have been implemented.”

This condition for progress reporting is not in the permit. This is a serious deficiency from our perspective, though we understand that DEC General Condition No.2 would appear not to necessarily mandate it, since the permit can neither dilute nor change the Consent Order.

We would like: continual verification that Aluf complies with the reporting requirements of the Consent Order; copies of Aluf's reports; and incorporation into the Draft Permit of regular reporting by Aluf.

5. Odor is a complicated chemistry and biological process. The Draft permit offers no air chemistry information or guarantee of emissions control and attenuation efficiency, except for:

"whatever measures are necessary" ... to prevent odorous air ... from being sensed in the surrounding neighborhoods at levels which are injurious to human, ... or reasonably interfere with the comfortable enjoyment of life or property ... "

This permit should be every bit protective of the community, as much as its flexibility allows optimal business operations for Aluf. If the new factory emission controls work, and odors cease, then fine, until they don't. Accidents happen, and Aluf has to notify NYSDEC 'immediately', with 24 hours to correct the problem. People want a logically understood response and conclusion to the problem: WHAT IF?. And who defines what is "reasonable interference"? We would also like 'immediately' to be defined as 'within two hours'.

Please provide metrics for emissions control by specific contaminant, especially odor-causing contaminants, and require regular stack testing going forward, if warranted, to guarantee compliance.

6. We understand that the Aluf facility is, by definition, covered by an Air State Facility permit, and as such, is not mandated to provide certain commitments that a major facility would have, such as a Compliance Assurance Monitoring (CAM) Plan or routine regulatory submittal reporting.

Aluf measurements, settings, tests, gauge readings, and maintenance records that are required for "Compliance Demonstration" are to be tracked internally and kept for five years, and reported only upon the request of NYSDEC. There are no routine report submittals in this permit as it stands; we feel that routine compliance reporting in addition to the *first year* under the Consent Order should be at least annually, or more often, thereafter.

In addition, we would like to see the list of all milestones and completions for the new upgrades as agreed to between NYSDEC and Aluf, whether part of the permit or not, as it is updated.

7. Though the permit establishes a 24-hour turn-around time for correcting a nuisance condition [prior to scheduled maintenance] "*when detected*", the ambiguity and loose definition of nuisance - and who is the detector - remain. Does the Town or community have to wait until Aluf recognizes 'detection' and reports to DEC? Or can the Town or community be the "detector"? And, if so, what confirmation and mechanism would be needed for NYSDEC – and Aluf - to react?

8. Process Regulation under 6 NYCRR Part 212 incorporates consideration of persistent, bioaccumulative and toxic “*High Toxicity Air Contaminants (HTAC)*”. This chemical list derives from a very wide swath of industrial, often specialized, use, and perhaps none are applicable to Aluf, but almost a dozen of the HTAC are contained in the list of analytes recently performance (‘stack’) tested, and any significant test findings for these should be compared to relevant HTAC thresholds, some as low as 5, 25 and 100 pounds per year, odor thresholds, and other standards, where appropriate, before the permit is finalized.
9. We understand from a June 22 NYSDEC email to Clean Air for Orangetown, that amendments have been made to the Consent Order regarding doors and fragrance issues. We would like a copy of the signed, complete revised Consent Order for our files, and the opportunity to review this revised Consent Order prior to finalizing the Draft Permit.
10. We understand that Aluf’s performance testing will include fragrances, and that MSDS have just been provided to the community. Unless otherwise informed, we assume that the stack testing analyte list may not be fully representative of active, odor-causing product ingredients. We also notice that not all the documents received are true MSDS; some are specification sheets with no chemistry, and others list only hazardous components, which may not include items that may cause odors. Please confirm that stack testing will measure all relevant odor-causing products, and specify which products, if any, are to be monitored that are not currently on the list.
11. Montrose’s stack testing parameter analytical detection limits are shown as “ppbv” (part per billion by volume; a concentration unit); however, the reporting units are in lbs/hour (a rate unit). The latter is fine for determining mass emission rates, but they cannot be used for comparison to odor thresholds which are typically given in air concentration units, nor as compliance limits that may need to be established. All stack test detectable substances should also be reported as ppbv.
12. Also via NYSDEC email we understand that the control efficiency of the carbon unit will be determined by a “before and after” sampling, though that does not appear to be part of the Montrose protocol prepared by KEMS LLC, presumably on behalf of Aluf. We assume another party will perform that “before and after” test, and that test results will be provided to the public. Please confirm.

Similarly, new permit Condition #1-4 has carbon unit vendors inspecting and sampling the carbon unit from the reprocessing area every 3 months, though sampling is undefined. We would like the permit to define the same ‘before and after’ sampling and testing, and list the testing parameters that will be used to determine breakthrough (i.e., substances passing through the carbon filter without being trapped). Also, emissions of any new chemistry adopted by Aluf in the future should be demonstrated to be controlled by the carbon filtration.

13. Certain operations, like the temperature controllers outlined in new permit condition #1-12, have a high temperature ‘alarm’ (at 500 degrees F.) and must shut down the extruders when the temperature exceeds the alarm level by 50 degrees F., and a log is to be kept for these times and

reported only when requested by NYSDEC. We would like to see traceable recordkeeping more definitive than just Aluf's word, like analog or digital temperature chart recorders, that are also submitted routinely.

14. New Condition #1-4, applicable to Emission Units 1 & 3, only describes carbon vendor inspection and sampling from the reprocessing area, which would be limited to EU-1. The same inspection and sampling should be spelled out for the IBC units of EU-3, especially so since the permit specifically states that EU-3 exhaust carries various Hazardous Air Pollutants (HAPs) from the melting process.
15. New Condition #1-5 states that ALUF will install an upgraded ventilation system in accordance with an "agreement" with the NYSDEC. Is this agreement the Consent Order? If so, we feel the permit should reference and incorporate the Consent Order; if not, we would like to review a copy of the NYSDEC-approved "agreement" before the permit is finalized.

This condition also describes the new air makeup and exchange rates in the four main rooms of ALUF's manufacturing: Retail, Repro, High-Density and Low-Density. Aside from the Repro area that will install new fabric and carbon filtration due to increased fugitive emissions, the other three areas will still be exhausting untreated, though diluted, fugitives. This is unreasonable unless the Department can assure the public that this "dilution as the solution to the pollution" will not include emissions that both cause odor and/or undue health risks.

SUMMARY

- I. Clearly, Aluf's current ASF permit has not reflected the nature of process emissions and functional operations and controls that has led to the odor 'nuisance' problem, and odor related or not, other emissions detected during performance testing.
- II. The proposed draft permit calls for HVAC and other upgrades to the facility, and documenting emission control malfunctions. Submission of this information [to the Department] for the most part is neither routine nor mandatory, until requested by the Department, which we feel is too dubious and we'd prefer more routine reporting and availability of such records to the public.
- III. Conditions #2, 4, 5, 6, 7 & 11 are shown as "expired by Mod 1". A June 19 NYSDEC email from NYSDEC to Clean Air for Orangetown states that anything marked 'removed' will be taken out of the permit. We assume this also applies to conditions listed as 'expired by Mod 1' and 'replaces'.
- IV. New permit Condition #1-2 states that malfunctions (and startup/shutdowns) that can be expected to result in an exceedance of any applicable emission standard should be: 1) reported to the Department when requested to do so by the Department, or 2) when required by a permit condition for a corresponding contamination source. How will the Department know [when] to request this information?

Since there are no applicable standards for odor, this point remains controversial, and the onus for reporting falls back to identifying odors from specific processes (malfunctions, startup, or shutdown)

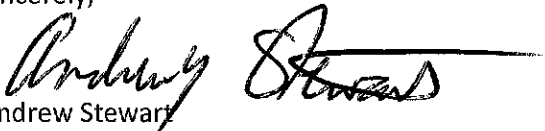
such as particular process areas, open doors, etc., which then falls back on the dubious "when detected" condition.

- V. Most of the new permit conditions fall under the generic state requirement 6 NYCRR 201-5.3(c) which states that:

"Permits may contain such conditions as the department shall require to insure compliance with the provisions of this Title, to identify applicable Federal standards, recordkeeping and reporting requirements and ensure that operation of the facility will not prevent attainment or maintenance of one or more national ambient air quality standards."

This is rather generic and relates more to federal and national ambient air issues, and less to odor and nuisance problems that are complicated chemistry issues soon to be in a permit with no chemistry information or guarantee of emissions control and attenuation efficiency, and now with more facility emission and process upgrades (a good thing), but still resulting in an endless cycle, no clearer or more definitive than the 2013 permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew Stewart", with a long horizontal flourish extending to the right.

Andrew Stewart
Supervisor

Cc: Town Board
Town Attorney