

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL RESOURCES

In The Matter Of:

General Battery Corporation :  
Laureldale Borough :  
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, General Battery Corporation (hereinafter "the Company") is a Pennsylvania corporation which owns and operates a secondary lead smelter facility in Laureldale, 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, blast furnaces, lead smelter and refinery buildings, road and yard areas 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; and the Department interprets ambient air quality monitoring conducted by the Company to indicate exceedances of 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 February 15, 1984, the Company shall submit for Department approval Plan Approval Applications for the following:

1. The construction of a structure that will enclose all lead bearing raw materials. Negative pressure shall be maintained in the structure during normal operations and the air in the building evacuated and cleaned through a fabric filter. Vehicle entrance to the structure shall be through openings equipped with a strip curtain door or a Department approved equivalent. This program will be completed no later than March 31, 1985 and carried out in accordance with the following schedule:

August 31, 1984

a. On or before [REDACTED], contracts for the required construction will be awarded.

October 1, 1984

b. On or before [REDACTED], on-site construction will begin.

c. On or before March 1, 1985, on-site construction will be completed.

d. On and after March 31, 1985, all broken batteries and lead bearing materials resulting from battery operations will be stored in an enclosed area and no outside storage of such materials will take place.

2. The construction of a structure that will ensure that all lead bearing raw materials which are not enclosed in a case will be transported in an enclosure maintained under negative pressure, except that battery plant scrap and process recyclables may be transported in closed containers between buildings. The exhaust from such enclosure will be filtered.

3. The precautions that shall be undertaken to prevent case breakage, leakage of battery acid and lead contamination of the yard area. These precautions will be implemented no later than March 31, 1985. Whole, unbroken batteries will not be stored outside an enclosure.

4. The enclosure of the slag cooling and storage building. The slag cooling and storage building will be enclosed and vented according to the following schedule:

a. On or before June 30, 1984, contracts for the required construction will be awarded.

b. On or before August 1, 1984, on-site construction will begin.

c. On or before March 1, 1985, on-site construction will be completed.

d. On and after March 31, 1985, the proposed program will be fully installed and operational.

5. The purchase and use of a road sweeper and a plan to limit fugitive emissions from roadways, road shoulders and exposed yard areas, and to set and enforce low speed limits on in-plant roads according to the following schedule:

a. On or before January 31, 1984, place order for a road sweeper.

b. On or before May 1, 1984, receive delivery of said road sweeper.

c. On or before June 1, 1984, the Company will implement a road sweeping schedule at the facility as set forth in the plan approval.

6. Smelter Building Ventilation System. Additional ventilation will be installed and operated according to the following schedule;

a. On or before August 31, 1984, contracts for the installation of ventilation equipment will be awarded.

b. On or before October 1, 1984, installation of ventilation equipment will begin.

c. On or before December 31, 1984, installation of ventilation equipment will be completed.

B. The Department will notify the Company of its decision on any Plan Approval Application within 75 days of submittal.

C. The Company shall undertake and complete the following:

1. On or before June 30, 1984, the Rotary Grid Casting exhaust stack (Point No. 6 in Appendix A) and the Industrial Grid Casting Exhaust Stacks (Point No. 13 in Appendix A) will be modified to an upward discharge.

2. The Linklater Oxide Mills (Point No. 14 in Appendix A) will be stack tested no later than March 31, 1984. Should such stack test demonstrate lead emissions greater than 0.01 lbs/hr., the stack will be directed to an upward discharge.

3. Increased ventilation of the low speed battery shredder utilizing local hooding and existing high energy scrubber as specified in operating permit number 06-308-028 modified on February 9, 1984.

4. On or before January 1, 1985, emission (stack) tests for lead will be performed in accordance with 25 Pa. Code Chapter 139, on the following major point sources:

- a. Point #1 - Battery breaker.crusher wet scrubber.
- b. Point #2 - Smelter #1 Process baghouse and scrubber.
- c. Point #3 - Smelter #1 Ventilation baghouse.
- d. Point #4 - Smelter #2 Process baghouse and scrubber.
- e. Point #5 - Smelter #2 Ventilation baghouse.
- f. Point #9 - Assembly baghouse (if stack modification is possible).
- g. Point #12 - Assembly baghouse.
- h. Point #13 - Grid casting exhauster.
- i. Point #21 - Assembly baghouse.

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

D. On or before January 30, 1985 the Company shall submit a plan for the study of the effectiveness of the smelter building ventilation system and the vehicle entrance opening of the raw material storage building in controlling lead emissions to the ambient air. Prior to initiating the study the Company and the Department shall agree on the procedures and methodology to be used. Such study shall be performed after installation and operation of the additional ventilation specified in paragraph A.6 and the curtain doors specified in paragraph A.1. On or before December 31, 1985 the Company shall complete the study and submit the results to the Department.

E. On or before June 30, 1984 the Company shall implement Department approved operating procedures and/or automated equipment that ensures the slag cooling and storage building doors are closed except during entrance and exit of vehicles. Documentation describing the operating procedures and/or automated equipment to be used shall be submitted to the Department for approval on or before April 30, 1984.

F. The Company expects that, with the foregoing measures, the NAAQS for lead will be attained by January 1, 1987, but in any event, the Department and the Company are committed to reaching attainment of the NAAQS as expeditiously as practicable. The following will be implemented in order to ensure attainment of the NAAQS:

1. The Department will conduct a study of the results of the foregoing control measures in attaining the NAAQS. The study will cover a period of one year and include at a minimum: (a) a review and evaluation of air quality

monitoring data; (b) a comparison of dispersion model predicted concentrations, accounting for production levels, with air quality monitoring data for concurrent periods; and (c) an estimate of the lead in air concentrations surrounding the facility assuming, as one basis of evaluation, maximum production levels and maximum allowable lead emissions. In conducting this study the Department shall include an EPA approved dispersion model. The Company and the Department will meet and confer on the results of the study.

2. Based on the results of the study and a review and evaluation of other data the Department will in its reasonable discretion determine whether the NAAQS for lead has been attained and will be maintained.

3. 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.

4. The Department and the Company will meet and confer on 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 will implement these control measures as expeditiously as practicable, but by no later than March 31, 1989.

G. 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.

H. On or before September 1, 1984, the Company shall install and operate two meteorological monitoring sites for wind speed and direction, atmospheric temperature, and atmospheric stability in accordance with guidelines established in EPA-450/4-80-012 of November 1980.

I. The Company shall continue to monitor ambient air quality at the five locations specified in Appendix B. On or before February 1, 1985, the Department will notify the Company of the sampler(s) that must be relocated and the location of the new sampling site(s). On or before March 31, 1985, the Company shall install and operate sampler(s) at the new location(s).

If the Department notifies the Company pursuant to paragraph F. (3) that the NAAQS for lead has not been attained, the Company shall install and operate two additional sampling sites within 60 days of the Department's selection of the new sampling sites.

The extended sampler network will be used: (1) to validate an EPA approved dispersion model, (2) to validate an alternative to the EPA approved dispersion model, or (3) to demonstrate that no dispersion model is appropriate

to ascertain the area's attainment status with respect to the lead NAAQS.

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.

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

J. 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.

K. On or before September 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.

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

M. The obligations to comply with the terms set forth in paragraphs A, C, D, E, H, I, and J 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.

N. 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]).

O. The Company hereby agrees to waive its right to appeal the provisions of this Order contained in paragraphs A, C, D, E, F(1), F(2), F(3), G, H, I, J, K and L 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 B, F(4), and M.

P. 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 B, F(4) and M shall relieve the Department of the provisions of this paragraph.

Q. 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.

R. 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.

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

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; nor shall this Consent Order and Agreement be construed to affect any rights of the Company pursuant to Section 6.2 of the Act, 35 P.S. Section 4006.2.

