

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Certified Mail No.: 7018 2290 0001 5356 0836

IN THE MATTER OF:

Patriot Shield Pennsylvania LLC : ORDER OF THE DEPARTMENT
2530 Thomas Avenue : Air Pollution Control Act
Jeannette, PA 15644 :

ORDER

NOW, this 27th day of November 2019, the Commonwealth of Pennsylvania, Department of Environmental Protection (“Department”) has found and determined the following:

A. The Department is the agency with the duty and authority to administer and enforce the Air Pollution Control Act, Act of January 8, 1960, P.L. 2119 (1959), *as amended*, 35 P.S. §§ 4001-4015 (“Air Pollution Control Act”); Section 1917-A of the Administrative Code of 1929, Act of April 9, 1929, P.L. 177 *as amended*, 71 P.S. § 510-17 (“Administrative Code”); and the rules and regulations promulgated thereunder.

B. Patriot Shield Pennsylvania LLC (“Patriot”) is a Pennsylvania limited liability company that maintains a business address of 2530 Thomas Avenue, Jeannette, PA 15644. Patriot is a “person” as that term is defined in Section 3 of the Air Pollution Control Act, 35 P.S. § 4003.

C. Patriot owns and operates a hemp drying, processing, and storage facility located at 2530 Thomas Avenue in the City of Jeannette, Westmoreland County (“Site”).

Malodor Violations

D. Pursuant to 25 Pa. Code § 121.1, a “malodor” is defined as “An odor which causes annoyance or discomfort to the public and which the Department determines to be objectionable to the public.”

E. 25 Pa. Code § 123.31 states in relevant part, “A person may not permit the emission into the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property of the person on whose land the source is being operated.”

F. 25 Pa. Code § 121.7 states, “No person may permit air pollution as that term is defined in the act.”

G. Pursuant to Section 3 of the Air Pollution Control Act, 35 P.S. § 4003, “air pollution” is defined as “the presence in the outdoor atmosphere of any form of contaminant, including, but not limited to, the discharging from stacks, chimneys, openings, buildings, structures, ... processes, or any other source of any smoke... gases, vapors, odors... or any other matter in such place, manner or concentration inimical or which may be inimical to the public health, safety or welfare or which is or may be injurious to human, plant or animal life or to property or which unreasonably interferes with the comfortable enjoyment of life or property.”

H. Since September 2019, the Department has received numerous complaints from persons in the community reporting that objectionable odors are emanating from the Site and are causing annoyance and/or discomfort.

I. Since September 2019, the Department received a complaint that reported the destruction of property, specifically manufactured products, at a business located near the Site caused by the objectionable odors and air contaminants emanating from the Site.

J. On September 18, 2019, the Department confirmed that a malodor as defined in 25 Pa. Code § 121.1 was emanating from the Site. The odor was causing annoyance or discomfort to the public.

K. Patriot violated 25 Pa. Code § 123.31 on September 18, 2019 by permitting the emission of malodorous air contaminants from the Site that were detectable beyond the property where the Site is located.

L. Patriot violated 25 Pa. Code § 121.7 on September 18, 2019 by permitting air pollution as defined in the Air Pollution Control Act, because the malodor unreasonably interfered with the comfortable enjoyment of life in the community.

M. A Notice of Violation identifying the violation set forth in Paragraph K, above, was sent to Patriot on October 7, 2019.

N. On October 29, 2019, the Department confirmed that a malodor as defined in 25 Pa. Code § 121.1 was emanating from the Site. The malodor was causing annoyance or discomfort to the public.

O. On October 30, 2019, the Department confirmed that a malodor as defined in 25 Pa. Code § 121.1 was emanating from the Site. The malodor was causing annoyance or discomfort to the public.

P. Patriot violated 25 Pa. Code § 123.31 on October 29 and 30, 2019 by permitting the emission of malodorous air contaminants from the Site that were detectable beyond the property where the Site is located.

Q. Patriot violated 25 Pa. Code § 121.7 on October 29 and 30, 2019 by permitting air pollution as defined in the Air Pollution Control Act, because the malodor unreasonably interfered with the comfortable enjoyment of life in the community.

R. A Notice of Violation identifying the violations set forth in Paragraphs P and Q, above, was sent to Patriot on November 1, 2019.

Installation and Operation Violations

S. On September 18, 2019, a Department inspection of the Site revealed that a diesel generator (“Generator”) had been installed and was operating at the Site. The Generator powered an air circulation system to force air through the hemp drying rooms. The Generator was installed and began operating on or about September 14, 2019.

T. The Generator is an “air contamination source” as defined in 25 Pa. Code § 121.1.

U. An October 4, 2019 Department inspection of the Site revealed that a 3-part scrubber (“Scrubber”) had been installed and was operating at the Site. The Scrubber was installed and began operating on October 3, 2019.

V. The Scrubber is an “air cleaning device” as defined in 25 Pa. Code § 121.1.

W. Patriot operated the generator and the scrubber as integral parts of its hemp drying and processing operations at the Site.

X. 25 Pa. Code § 127.11 states in relevant part, “a person may not cause or permit the construction or modification of an air contamination source, ... or the installation of an air cleaning device on an air contamination source, unless the construction, modification, reactivation or installation has been approved by the Department.”

Y. 25 Pa. Code § 127.443 states in relevant part, “A person may not cause or permit the operation of a source the construction, modification or reactivation of which, or the installation of an air cleaning device on which, is subject to § 127.11 (relating to plan approval requirements), unless the Department has issued a permit to operate the source.”

Z. As of the date of this Order, Patriot has not obtained authorization to install or construct the Generator or the Scrubber.

AA. As of the date of this Order, Patriot has not obtained authorization to operate the Generator or to operate the Scrubber.

AB. Patriot violated 25 Pa. Code § 127.11 by failing to obtain authorization to construct or install the Generator and the Scrubber.

AC. Patriot violated 25 Pa. Code § 127.443 by failing to obtain authorization to operate the Generator and the Scrubber.

AD. Each day that Patriot operated the Generator and/or Scrubber is a separate violation of 25 Pa. Code § 127.443.

AE. On October 27, 2019, the Department received a Request for Determination of

Exemption from Plan Approval/Operating Permit, pursuant to 25 Pa. Code § 127.14, for the installation and operation of equipment at the Site (“RFD”).

AF. The RFD is technically deficient as submitted. As of the date of this Order, Patriot has not supplied to the Department additional information required for the Department to begin reviewing the RFD.

AG. The Generator was removed from the Site on or about November 18, 2019.

AH. The violations described in Paragraphs K, L, P, Q, AB, AC, and AD, above, each constitute unlawful conduct under Section 8 of the Air Pollution Control Act, 35 P.S. § 4008, and a public nuisance under Section 13 of the Air Pollution Control Act, 35 P.S. § 4013.

ORDER

NOW therefore, pursuant to Sections 4(9) and 10.1 of the Air Pollution Control Act, 35 P.S. §§ 4004(9) and 4010.1; and Section 1917-A of the Administrative Code, 71 P.S. § 510-17 the Department hereby Orders the following:

1. Patriot shall within two (2) days of receipt of this ORDER cease operation of all air contamination sources and air cleaning devices at the Site until the Department has authorized their operation at the Site.
2. Patriot shall not install and/or operate any air contamination sources or air cleaning devices at the Site without obtaining prior authorization from the Department.
3. Patriot shall within two (2) days of receipt of this ORDER cease emissions of air contaminants from hemp drying, processing, and/or storage from the Site to the outdoor atmosphere, including passive emissions, until such time as this ORDER is modified or terminated in writing by the Department.

4. Patriot shall not accept delivery of new hemp material for drying, processing, or storage at the Site unless and until the Department has authorized operation of air contamination sources and/or air cleaning devices at the Site.
5. If Patriot intends to continue hemp drying, processing and/or storage operations at the Site, it shall, within forty-five (45) days of the date of receipt of this ORDER submit to the Department either:
 - a. A plan approval application for the installation and operation of any air contamination sources and/or any air cleaning devices Patriot intends to install and/or operate at the Site; or,
 - b. A new RFD, pursuant to 25 Pa. Code § 127.14, for the installation and operation of any air contamination sources and/or any air cleaning devices Patriot intends to install and/or operate at the Site.
6. Patriot shall respond to any Department comments or requests for additional information pertaining to its application for plan approval and/or RFD submitted pursuant to Paragraph 3, above, within the time frame specified by the Department.

Any person aggrieved by this action may appeal the action to the Environmental Hearing Board (Board) pursuant to Section 4 of the Environmental Hearing Board Act, 35 P.S. § 7514, and the Administrative Agency Law, 2 Pa.C.S. Chapter 5A. The Board's address is:

Environmental Hearing Board
Rachel Carson State Office Building, Second Floor
400 Market Street
P.O. Box 8457
Harrisburg, PA 17105-8457

TDD users may contact the Environmental Hearing Board through the Pennsylvania Relay Service, 800-654-5984.

Appeals must be filed with the Board within 30 days of receipt of notice of this action unless the appropriate statute provides a different time. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

A Notice of Appeal form and the Board's rules of practice and procedure may be obtained online at <http://ehb.courtapps.com> or by contacting the Secretary to the Board at 717-787-3483. The Notice of Appeal form and the Board's rules are also available in braille and on audiotape from the Secretary to the Board.

IMPORTANT LEGAL RIGHTS ARE AT STAKE. YOU SHOULD SHOW THIS DOCUMENT TO A LAWYER AT ONCE. IF YOU CANNOT AFFORD A LAWYER, YOU MAY QUALIFY FOR FREE PRO BONO REPRESENTATION. CALL THE SECRETARY TO THE BOARD AT 717-787-3483 FOR MORE INFORMATION. YOU DO NOT NEED A LAWYER TO FILE A NOTICE OF APPEAL WITH THE BOARD.

IF YOU WANT TO CHALLENGE THIS ACTION, YOUR APPEAL MUST BE FILED WITH AND RECEIVED BY THE BOARD WITHIN 30 DAYS OF RECEIPT OF NOTICE OF THIS ACTION.

FOR THE COMMONWEALTH OF
PENNSYLVANIA, DEPARTMENT OF
ENVIRONMENTAL PROTECTION:



Mark R. Gorog, P.E.
Regional Manager
Air Quality Program



Southwest Regional Office

November 27, 2019

CERTIFIED MAIL 7018 2290 0001 5356 0836

Andrew Englund
Patriot Shield Pennsylvania LLC
2530 Thomas Avenue
Jeannette, PA 15644

RE: Order of the Department

Dear Mr. Englund:

Please find enclosed an Administrative Order dated November 27, 2019, requiring Patriot Shield Pennsylvania LLC to cease operation of air contamination sources and air cleaning devices at the hemp drying, processing, and storage facility located in Jeannette, PA, until such time as the Department has authorized their operation.

If you have any questions, please contact me at 412.442.4150.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. Gorog".

Mark R. Gorog
Regional Manager
Air Quality Program
Southwest Region

Enclosure

CC: Andrew Ross, Patriot Shield National
File

