

DEPARTMENT OF ENVIRONMENTAL QUALITY
AIR QUALITY DIVISION
ACTIVITY REPORT: On-site Inspection

A030162225

FACILITY: OLD EUROPE CHEESE		SRN / ID: A0301
LOCATION: 1330 E EMPIRE AVE, BENTON HARBOR		DISTRICT: Kalamazoo
CITY: BENTON HARBOR		COUNTY: BERRIEN
CONTACT: Howard Goens , Quality Control Manager		ACTIVITY DATE: 03/02/2022
STAFF: Matthew Deskins	COMPLIANCE STATUS: Compliance	SOURCE CLASS: MINOR
SUBJECT: Unannounced Scheduled Inspection		
RESOLVED COMPLAINTS:		

On March 2, 2022 AQD staff (Matt Deskins) went to conduct an unannounced scheduled inspection of the Old Europe Cheese (OEC)(SRN: A0301) facility located at 1330 East Empire Avenue in Benton Harbor, Berrien County. According to file information, OEC was issued an air permit (PTI No. 36-09) by the AQD for a spray dryer and other equipment for the processing of whey. Staff had been to the facility several times in the past, most recently back in 2013, but each time the equipment hadn't been fully installed yet and/or hadn't been put into production. Also, back in February of 2020, the AQD had been notified by the Benton Township Fire Department through the Michigan EGLE Pollution Emergency Alerting System (PEAS) of an Anhydrous Ammonia release from the facility's refrigeration system (See Attached Incident Report). During staff's prior visits, staff did not think to ask about refrigeration systems nor whether they used Anhydrous Ammonia in it. The AQD has a permit exemption in their rules for refrigeration systems that contain/use less than 500 gallons of Anhydrous Ammonia in them. Staff had intended to inspect the facility last fiscal year but it had been put off due to the COVID Pandemic and other circumstances. The purpose of staff's inspection was to determine if the facility has been using the permitted equipment and if so, have they been complying with their permit conditions along with following up on the amount of Anhydrous Ammonia in the refrigeration system. Staff departed for the facility at approximately 9:40 a.m.

Staff arrived at OEC at approximately 10:40 a.m. The door to the lobby was locked and staff had to press an intercom button to announce their presence and state the purpose of the visit. The person on the other end asked staff if they had a scheduled appointment and if so, who it was with. Staff mentioned that the AQD is required to do unannounced inspections so they didn't have an appointment. The person then went on to say that they would buzz staff into the lobby and someone would be with them as soon as possible. Staff thanked them, entered the building, signed in, and took a seat in the lobby to wait.

After what seemed approximately 10 minutes, an employee named Howard Goens (Quality Control Manager) came out to greet staff and led them to a room off to the side of the lobby. Staff then introduced them self, gave him a business card, and stated the purpose of the visit. Staff mentioned to Howard that it had been 9 years since they were last there and that they had an air permit for the Whey Processing Equipment. Staff also mentioned the Anhydrous Ammonia release report that we received back in 2020 and between that and the amount of time since staff's last visit, it prompted us to include them on the inspection list for this fiscal year. Howard then stated that the Whey Processing Equipment was still present but it still hadn't been used. He mentioned that was probably going to change though in the next couple of months (April or May). He went on to say that he wasn't aware of the air permit and

staff mentioned that he should probably make a copy of it then before they leave so he will know what is required. Staff then asked about the amount of Anhydrous Ammonia that is used in their refrigeration system and Howard said he wasn't sure. He said that we could get with Chris (Maintenance Manager) for that information since he wasn't familiar with it. He then mentioned that Mi-OSHA was present and asked staff if they would mind waiting back out in the lobby until he finished up with them. He mentioned that he was just about done with their inspection and staff stated that would be fine. Staff then went back out and sat down in the lobby.

Approximately 10 minutes later, Howard came back out along with a representative from Orkin. Howard mentioned that he had to take the Orkin employee out to one of their buildings out back and that staff could go along with them since the Whey Processing Building was on the way. Staff proceeded with them out to the Whey Processing Building where Howard let staff in and mentioned that he would be back in a few minutes. While he was gone, staff looked over the equipment and verified it wasn't in use. Howard then came back a few minutes later and had Chris (Maintenance Manager) with him. Staff then asked some general questions about current facility operations and the following is a summary of that discussion along with what staff observed.

As mentioned already, the Whey Processing Equipment has been installed but they still haven't put it into commercial operation to date. Howard said that it has been too expensive to operate with the volume of whey they are producing so it wouldn't be profitable. He said that currently they are still concentrating the liquid in the whey and selling it to a farmer for veal feed. However, he went on to state that Albano Navarro (General Manager), who took over for Francois Capt and whom staff had met with during previous visits, wants to put the equipment into operation. He said to make it worthwhile that they plan on mixing "Permeate", which is a slurry left over from milk processing, with the whey to give them enough product to justify operating it. He said that they will be getting the "Permeate" from the Milk Manufacturer's Association. Staff then asked what kind of products that they make at OEC and Howard mentioned that they are still producing all kinds of handcrafted specialty cheeses such as bries, goudas, edam, fontina, etc. Staff then asked about the number of employees and current work schedule. Howard mentioned that they have approximately 90 employees (looking to hire more) and that they work 1 long shift Monday thru Friday from approximately 5:00 a.m. until 5:00 p.m. Staff then asked how business has been and Howard replied that it has been very good even through the Covid pandemic.

Staff then asked Chris about the Refrigeration System and he said that it is a closed loop system and that it uses/contains 1,640 gallons of anhydrous ammonia. Staff then mentioned the AQD Permit Exemption 500-gallon limit and Chris said he wasn't aware of that. He said he thought everything was fine and was told that it had to be under 10,000 pounds (?) to require a permit. Staff mentioned that might be a requirement of some other regulatory authority but that the AQD limits it to 500 gallons without needing an air permit. Staff then mentioned to Howard that staff would be required to send a Violation Notice (VN) for not having a Permit for it. (SEE INSPECTION SUMMARY AMENDMENT BELOW FOR AN UPDATE REGARDING COMPLIANCE STATUS ON THIS). Staff also looked at the facilities boilers and they have two which are strictly fired on natural gas. The primary boiler is a Cleaver Brooks with a manufacture date of 2000 and is rated at 20,922,000 btu/hr. They use

this boiler to run the whole facilities operations. The secondary boiler is also a Cleaver Brooks but is about half the size of the primary one. It has a manufacture date of 2008 and is rated at 10,206,000 btu/hr. Both of these boilers appear to be exempt from needing an air permit by the AQD Rule 282(2)(b)(i). However, due to their size/btu rating and installation date, these boilers are both subject to the EPA Federal Regulation 40 CFR Part 60 Subpart Dc – Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. This regulation covers boilers rated between 10,000,000 and 100,000,000 million btu's per hour that were constructed, modified, or reconstructed after June 9, 1989. Normally this would've required the facility to submit an Initial Notification for both boilers, track natural gas fuel usage in each one, report annually to the Michigan Air Emissions Reporting Systems (MAERS), and potentially pay air fees. However, the AQD's historical position has been that if a facility would only be subject to fees and required to report to MAERS just for being subject to Subpart Dc and for no other reason, than those requirements were being waived. This position may change in the future and if does, staff will notify the facility about the new requirements.

INSPECTION SUMMARY: The facility appears to be in NON-COMPLIANCE due to the operation of an Anhydrous Ammonia Refrigeration System without an air permit. Staff was told that their Refrigeration System uses/contains 1,640 gallons of Anhydrous Ammonia which is over the 500-gallon limit allowed by the AQD Rule 336.1280(2)(a) Permit Exemption, thus it would appear to need an air permit. Staff mentioned that a VN would be forthcoming along with a copy of staff's inspection report. Staff also explained that they would have to respond to the VN within a specified timeframe and would have to include how they planned to address the issue. Staff then thanked Howard for his time and departed the facility at approximately 12:10 p.m.

NOTE: Since the Whey Processing Equipment still has yet to be put into production, no records would have needed to be generated as required by PTI No. 36-09. Before departing the facility, Howard made a copy of the PTI and staff told him that they would need to comply with it's requirements once the equipment was operational. He said he understood.

3-21-22 Inspection Summary Amendment:

After issuing a VN for non-compliance It had been brought to staff's attention by the AQD Permit Section that the 500-gallon limit on anhydrous ammonia used in refrigeration systems was added to the AQD Permit Exemptions (Rule 336.1280(2)(a) during revisions to them back in 2016. Staff did not recall this particular revision and thought the exemption had always had the 500-gallon limit. Since OEC's Refrigeration System was installed years before this date and has not been modified or reconstructed in any way since, so technically, the system would be considered grandfathered in and would not be in violation of the permit exemption requiring the need for an air permit. Staff has contacted the facility about this and will be sending out a letter rescinding the VN.

NAME Matt Deskins

DATE 3-21-22

SUPERVISOR  3/22/22