

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Ro-Lin Farm Services, Inc.  
8040 Conservancy Road  
Germantown, Ohio 45327

:  
:  
:

Director's Final Findings  
and Orders

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Ro-Lin Farm Services, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility (as hereinafter defined) shall in any way alter Respondent's obligations under these Orders.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Orders shall have the same meaning as defined in ORC Chapter 3753 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of the Ohio EPA makes the following findings:

1. Respondent owns and operates a retail fertilizer sales facility which is located in Germantown, Ohio (Montgomery County). The facility unloads anhydrous ammonia from tank trucks for storage in pressurized tanks. The anhydrous ammonia is subsequently transferred into smaller nurse tanks for eventual sale to and use by farmers. At the facility, Respondent operates a covered process, as defined in Ohio Administrative Code ("OAC") Rule 3745-104-01(B)(11). The covered process at the facility is classified as a process subject to the program two eligibility requirements, as defined in OAC Rule 3745-104-05, and shall comply with OAC Rules 3745-104-17 through 3745-104-23 to meet the prevention program requirements.

2. Anhydrous ammonia is a regulated substance listed in OAC Rule 3745-104-04, and has a threshold quantity of 10,000 pounds. Respondent stores approximately 80,000 pounds of anhydrous ammonia at the facility.
3. Pursuant to OAC Rule 3745-104-05, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined by OAC Rule 3745-104-02, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999 or no later than when the threshold quantity is exceeded in a process.
4. Respondent began storing anhydrous ammonia at the facility above the threshold quantity prior to 1999. On February 3, 2000 the Ohio EPA sent a letter to all anhydrous ammonia facilities that did not submit a RMP to the U.S. EPA by June 21, 1999. The letter stated that Ohio now had delegation of the Risk Management Program and they were required to submit a RMP by January 3, 2000 to the U.S. EPA and the Ohio EPA. On July 19, 2000, Ohio EPA representatives assisted Respondent and provided guidance for submitting the RMP and implementing the RMP Program. Respondent partially completed the RMP, but did not submit it to the U.S. EPA, and submitted an incomplete form to the Ohio EPA.
5. In September of 2005, the Ohio EPA discovered that a complete RMP had not been submitted to U.S. EPA by Respondent. Respondent was informed that the RMP must be submitted immediately to the U.S. EPA and Ohio EPA.
6. An Ohio EPA inspection of the facility on July 24, 2007 revealed that the Respondent's initial RMP had not been submitted to U.S. EPA or Ohio EPA and that a facility RMP program had not been implemented. With the assistance of the Ohio EPA inspectors, Respondent completed and submitted their initial RMP on July 24, 2007. Because the facility's RMP Program had not been implemented, Respondent was cited for 10 violations of the applicable program two eligibility requirements. On August 22, 2007, the Ohio EPA issued a notice of violation letter to Respondent citing the above-referenced violations. By September 14, 2007, Respondent had resolved the outstanding violations at the facility.
7. The Director of the Ohio EPA issued Final Findings and Orders ("Orders") to Respondent on December 31, 2007 to address the violation for failing to submit the RMP and the other violations discovered during the initial RMP inspection. The Orders assessed a civil penalty for the violations which Respondent paid in accordance with the Orders.
8. On August 7, 2012, the U.S. EPA sent Respondent a letter because the facility's RMP had not been updated within five consecutive years of its initial submission (or each most recent update) as required by the applicable regulations. After

receiving U.S. EPA's letter, Respondent prepared an updated RMP. However, unbeknownst to Respondent, a technical error occurred when making the electronic submittal, and the updated RMP was never officially received.

9. On February 28, 2013, the Ohio EPA, DAPC sent Respondent a follow-up letter since the facility's RMP had not been updated and submitted in accordance with the U.S. EPA's request or as required by OAC Rule 3745-104-49. Respondent did not respond to the February 28, 2013 letter.
10. On February 25, 2014, Ohio EPA conducted the second five-year RMP inspection at Respondent's facility and discovered that the updated RMP had not been submitted to U.S. EPA. The Ohio EPA inspector provided assistance to Respondent in submitting the updated RMP to the U.S. EPA and, again, provided guidance for implementing the facility's RMP Program. Because the facility's RMP Program had not been implemented, Respondent was cited for the following 10 violations (all repeat violations from the 2007 initial RMP facility inspection) of the applicable program two eligibility requirements:
  - (a) Respondent failed to develop a management system, in violation of OAC Rule 3745-104-07;
  - (b) Respondent failed to maintain hazard assessment documentation, in violation of OAC Rule 3745-104-15;
  - (c) Respondent failed to compile and maintain the up-to-date safety information related to the regulated substances, processes, and equipment, in violation of OAC Rule 3745-104-17;
  - (d) Respondent failed to conduct a review of the hazards associated with the regulated substances, processes, and equipment, in violation of OAC Rule 3745-18;
  - (e) Respondent failed to prepare written operating procedures, in violation of OAC Rule 3745-104-19;
  - (f) Respondent failed to ensure that each employee attends training and refresher training, in violation of OAC Rule 3745-104-20;
  - (g) Respondent failed to establish and implement a written maintenance program, in violation of OAC Rule 3745-104-21;
  - (h) Respondent failed to conduct a compliance audit, in violation of OAC Rule 3745-104-22;
  - (i) Respondent failed to develop an emergency response plan, in violation of OAC Rule 3745-104-36; and
  - (j) Respondent failed to update the facility's RMP within five consecutive years of its initial submission (or each most recent update), in violation of OAC Rule 3745-104-49.
11. On March 10, 2014, the DAPC inspector sent Respondent a notice of violation letter requesting that the necessary documentation to correct the violations cited in Finding 10, be submitted to the Ohio EPA within 30 days of receipt of the letter. The letter also instructed Respondent to submit their updated RMP to the U.S. EPA immediately.

12. On April 3, 2014, Respondent submitted the facility's updated RMP to the U.S. EPA and Ohio EPA.
13. On April 7 and 25, 2014, Respondent submitted the documentation necessary to cure the violations cited in Finding 10.
14. ORC § 3753.06 prohibits violations of the provisions of ORC Chapter 3753 or any rule adopted under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 10, in violation of ORC § 3753.06.
15. The Director has given consideration to, and based his determination on, evidence related to the technical feasibility and economic reasonableness of complying with the following Orders and benefits to the people of the State to be derived from such compliance.

#### **V. ORDERS**

The Director hereby issues the following Orders:

1. Pursuant to ORC § 3753.09, Respondent shall pay the amount of fifteen thousand dollars (\$15,000) in settlement of Ohio EPA's claim for civil penalties. Within 30 days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for \$15,000, which will be deposited into the Risk Management Plan fund (Fund 5420) established pursuant to ORC § 3753.05. The official check shall be submitted to Carol Butler or her successor at the following address and shall identify the Respondent and the facility:

Ohio EPA  
Office of Fiscal Administration  
50 West Town Street, Suite 700  
P.O. Box 1049  
Columbus, Ohio 43216-1049.

2. A copy of the above check shall be sent to Robert Hodanbosi, Chief, Division of Air Pollution Control, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
Lazarus Government Center  
50 West Town Street, Suite 700  
Columbus, Ohio 43215

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check, as required by Section V of these Orders.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to, the operation of Respondent's facility.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

## **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

## **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Kim Joseph

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

## **XI. RESERVATION OF RIGHTS**

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section XII of these Orders.

## **XII. WAIVER**

In order to resolve disputed claims, without admission of fact, violation or liability,

and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

### XIII. EFFECTIVE DATE

The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

### XIV. SIGNATORY AUTHORITY

Each undersigned representative of a party to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such party to these Orders.

#### ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig W. Butler  
Director

11/21/14  
Date

**AGREED:**

**Ro-Lin Farm Services, Inc.**

Ronald Gilbert  
Signature

11-12-14  
Date

RONALD GILBERT  
Printed or Typed Name

Pres  
Title