

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

SynChem, Inc.
220 Lena Drive
Aurora, Ohio 44202

.....
**Director's Final
Findings and Orders**

Respondent

ENTERED DIRECTOR'S JOURNAL

JUN 30 2006

OHIO E.P.A.

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to SynChem, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.13 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 Respondent or of the Facility 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 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent manufactures chemicals for the biotech and electronic industries, as well as conducts nucleotide synthesis activities at a facility located at 220 Lena Drive, Aurora, Portage County, Ohio (Facility). Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD987053543.
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent currently operates as a small quantity generator of hazardous waste, however, during calendar years 2002 and 2003, Respondent operated as a large quantity generator. The hazardous wastes generated by Respondent at the Facility include spent solvent (D001, D018, D038, F002, F003, F005), chlorinated nucleotide synthesis waste (D022, D028, D038, F001, F002, F003, F005), chromatography waste (F002, F003), and resin manufacturing waste (D001).
4. On September 20, 2005, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Established and operated a hazardous waste storage facility without a permit, in violation of ORC § 3734.02(E) & (F);
 - b. Failed to determine whether wastes generated at the Facility were hazardous wastes, in violation of OAC rule 3745-52-11;
 - c. Failed to mark each container holding hazardous waste with the accumulation start date and with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(2) and (3);
 - d. Failed to maintain containers holding hazardous waste closed when not adding or removing waste, in violation of OAC rules 3745-55-73(A)/3745-66-73(A);
 - e. Failed to post the necessary emergency information next to a telephone at the Facility, in violation of OAC rule 3745-52-34(D)(5);

- f. Failed to conduct and document inspections of emergency equipment at the Facility, in violation of OAC rules 3745-54-33/3745-65-33;
 - g. Failed to document weekly inspections of areas at the Facility where hazardous wastes were stored, in violation of OAC rules 3745-55-74/3745-66-74;
 - h. Failed to complete a land disposal restriction notification form for off-site shipments of hazardous waste, and failed to identify all underlying hazardous constituents on the land disposal restriction notification for off-site shipments of hazardous waste, in violation of OAC rules 3745-270-07(A)(2) and 3745-270-09(A); and
 - i. Failed to label three containers holding used oil with the words, "Used Oil," in violation of OAC rule 3745-279-22(C).
5. On September 26, 28, and October 4, 2005, Respondent provided responses to Ohio EPA's September 20, 2005 compliance evaluation inspection.
6. By letter dated October 5, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.i. of these Orders. Also in the October 5, 2005 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.c. and 4.i. of these Orders.
7. In correspondence dated November 7, 2005, Respondent provided responses to Ohio EPA's October 5, 2005 letter.
8. By letter dated December 5, 2005, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.b., and 4.d. through 4.h. of these Orders.
9. Because no releases of hazardous waste were observed, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) & (F) violation referenced in Finding No. 4.a. of these Orders. In addition, and based upon Respondent's obligation to perform generator closure of the less than 90 day hazardous waste storage area, which was operated during calendar years 2002 and 2003 and is the same area of the Facility used to store hazardous waste without a permit, the Director has determined that it is unnecessary to reserve closure for the hazardous waste storage unit.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of \$12,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. \$9,600.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00;
 - b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00;
 - c. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00;
 - d. Within 300 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00;
 - e. Within 390 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00; and
 - f. Within 480 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,600.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining \$2,400.00 in hazardous waste related claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., Respondent shall fund a supplemental environmental project (SEP) by making a contribution totaling \$2,400.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

- a. Within 30 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- b. Within 120 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- c. Within 210 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- d. Within 300 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00;
- e. Within 390 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00; and
- f. Within 480 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of \$400.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.f., Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. A copy of each check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

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and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front Street
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its right to exercise its lawful authority to require Respondent to perform corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondent each reserve all other 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to seek corrective action at the Facility by Respondent, which right Ohio EPA does not waive, 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

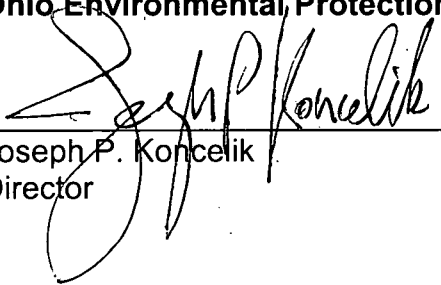
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Joseph P. Koncelik
Director

JUN 30 2006

Date

IT IS SO AGREED:

SynChem, Inc.

Wilfred J. Ferguson
Signature

6/15/06
Date

WILFRED J. FERGUSON
Printed or Typed Name

PRESIDENT
Title