

**BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.

DEC 14 2006

In the Matter of:

ENTERED DIRECTOR'S JOURNAL

CleanHarbors PPM, LLC  
1302 West 38<sup>th</sup> Street  
Ashtabula, Ohio 44004

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:  
:

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 CleanHarbors PPL, LLC ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 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 as hereafter 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 3704 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a facility, located at 1302 West 38<sup>th</sup> Street, Ashtabula, Ashtabula County, Ohio, at which electrical equipment, mainly transformers, are recycled. Respondent is owned by Clean Harbors Disposal Services, Inc. with headquarters located at 42 Longwater Drive, Norwell, Massachusetts. Respondent's facility is a Title V source based on emissions of trichloroethylene, a hazardous air pollutant.

2. At the above-referenced facility, Respondent owns and operates emissions units L001 (degreaser), L004 - L006 (trichloroethylene degreasers), and P003 (solvent

recovery still), which are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W) and ORC § 3704.01(C).

3. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. ORC § 3704.05(J)(2) prohibits the violation of any term and condition of a Title V permit.

4. On September 17, 1986, Permit to Install ("PTI") #02-2507 was issued to G&L Recovery Systems, Inc. for emissions units L001, L002, P001, P002, and T001-T003. Of these emissions units only L001 and the two tanks (T001 and T003) remain. PTI #02-2507 allows emissions unit L001 to emit up to 15.33 tons of volatile organic compounds ("VOC") per year.

5. On September 21, 2000, PTI #02-13770 was issued to Safety-Kleen Corporation, which succeeded G & L Recovery Systems, Inc. as owner of the facility. PTI #02-13770 covered emissions units L003-L006 and P003-P005. Of these units, only L004-L006 and P003 were installed. All of these emissions units vent into a common carbon adsorption unit ("CAU") for the control of VOC emissions (i.e., trichloroethylene, a hazardous air pollutant).

6. On May 15, 2002, Safety-Kleen Corporation was issued a Title V permit for the above-referenced facility, which included the emissions units covered by PTIs #02-2507 and #02-13770.

7. On September 7, 2002, Respondent purchased the assets of Safety-Kleen Corporation, including these emissions units. In a May 31, 2002, letter to Ohio EPA's Northeast District Office ("NEDO"), the Respondent notified NEDO of the planned change in ownership. Respondent stated that it agreed "to assume the responsibilities of Safety-Kleen (PPM), Inc. under PTIs #02-2507 and #02-13770 when transfer in ownership is complete."

8. On June 25, 2003, Respondent notified NEDO that it would conduct a stack test of the CAU serving emissions units L003-L006, P003, T001 and T003-T005 on July 22, 2003.

9. On July 22, 2003, Respondent began a stack test of the CAU. Pursuant to the PTI for these units and the Title V permit for the facility, best available technology ("BAT") requires that the CAU achieve 97% removal of VOC emissions by weight. Before the test was halted after 3 runs, the CAU had achieved only 58.7% removal of VOC by weight, a violation of ORC § 3704.05(C) and (J)(2). Upon determining that the test would not show compliance, Respondent shut down L003-L006, P003, T001 and T003 -T005 immediately until the CAU was rebuilt.

10. Respondent did not submit the test report for the July 22 test until October 20, 2003, a violation of OAC Rule 3745-15-04(A) and the Title V permit, which require that test reports be submitted not later than thirty days after the test. Respondent was also in violation of ORC § 3704.05(G) and (J)(2).

11. The CAU was re-tested on December 19, 2003 after it was redesigned and rebuilt, and the results demonstrated compliance with the VOC emission control efficiency limitation of 97% removal by weight. The test results yielded the average VOC emission control efficiency of 97.18% removal by weight.

12. Quarterly reports submitted by Respondent in 2002 pursuant to the requirements of PTI #02-13770 for the time period from May 15 to December 31, 2002 showed that the operation of emissions unit L001 resulted in emissions of 20.73 tons of VOC per year, in excess of the PTI limitation of 15.33 tons of VOC per year, which is a violation of the Title V permit, PTI and ORC § 3704.05(C), (G) and (J)(2).

13. Respondent agreed to initiate quarterly calculations to determine the actual emissions of emissions unit L001 in each calendar year beginning in 2003. When emissions reach 15.33 tons, Respondent agreed to shut down the operation of this unit until the beginning of the next calendar year. To date this process has been successful in maintaining compliance.

14. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Respondent shall pay the amount of eighty thousand dollars (\$80,000) in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC § 3704.06. Within thirty (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 sixty-four thousand dollars (~~\$64,000~~) of the total amount. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA  
Office of Fiscal Administration  
P.O. Box 1049  
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining sixteen thousand dollars (\$16,000) of civil penalty to Ohio EPA, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$16,000 to the Ohio EPA's Clean Diesel School Bus Program Fund (Fund 5CD). Respondent shall make payment on or within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "~~Treasurer, State of Ohio~~" for \$16,000. The official check shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent and Fund 5CD, to the above-stated address.

3. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required timeframe in Order 2, Respondent shall immediately pay to Ohio EPA \$16,000 of the civil penalty in accordance with the procedures in Order 1.

#### **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**

Except as otherwise specified in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Northeast District Office  
2110 East Aurora Road  
Twinsburg, Ohio 44087  
Attn: Bridget Byrne

and to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attn: Thomas Kalman

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 specially 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**

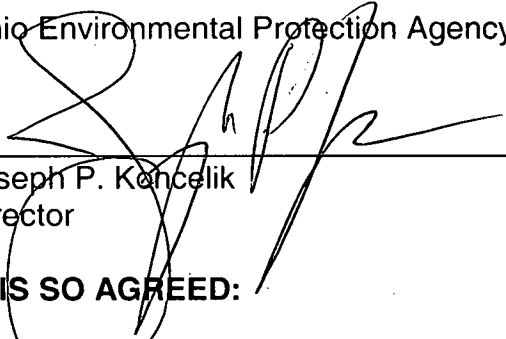
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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.

**IT IS SO ORDERED AND AGREED:**

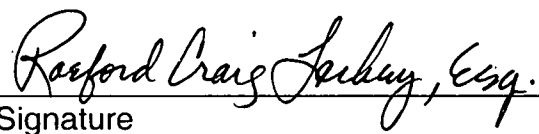
Ohio Environmental Protection Agency

  
\_\_\_\_\_  
Joseph P. Kancelik  
Director

12-5-06  
Date

**IT IS SO AGREED:**

CleanHarbors PPM, LLC

  
\_\_\_\_\_  
Signature

December 5, 2006  
Date

RAEFORD CRAIG LACKEY, ESQ.  
Printed or Typed Name

VICE PRESIDENT & CHIEF COUNSEL  
Title