

OHIO E.P.A.

JUL -7 2004

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

National Container Group, LLC
9520 Richmond Ave.
Cleveland, Ohio 44105

Respondent

**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 National Container Group, LLC (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 the Respondent or of the Facility owned by the Respondent 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. On September 10, 2001, Respondent purchased a plastic drum recycling operation at 9520 Richmond Ave, Cleveland, Ohio 44105 (Facility) from Cleveland Container Recycling Corporation.
3. Respondent was a large quantity generator of hazardous waste at the Facility.
4. At the Facility, Respondent handled "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03, including waste water from drum washing containing D004, D005, D006, D007, D008 and D009 hazardous waste and labels contaminated with methylene chloride, an F002 hazardous waste.
5. On February, 3, 4 and 6, 2003, Ohio EPA conducted an inspection at the Facility and determined that Respondent had, inter alia:
 - a. Failed to properly evaluate hazardous waste, in violation of OAC rule 3745-52-11;
 - b. Failed to submit a generator annual report for 1999, 2000 and 2001, in violation of OAC rule 3745-52-41;
 - c. Failed to conduct and document personnel training, in violation of OAC rule 3745-65-16(A), (B), (C) and (D);
 - d. Failed to maintain a contingency plan, submit copies of the plan to emergency service providers and to specify an emergency coordinator, in violation of OAC rules 3745-65-52 (A) through (F), 3745-65-53 and 3745-65-55;
 - e. Failed to maintain and inspect emergency spill control equipment in the less-than-90-day storage area, in violation of OAC rules 3745-65-32 and 3745-65-33;
 - f. Failed to maintain adequate aisle space in the hazardous waste accumulation area, in violation of OAC rule 3745-65-35;

- g. Failed to label a 55-gallon drum of hazardous waste in the satellite accumulation area with the words "hazardous waste" or other words which identified the contents, in violation of OAC rule 3745-52-34(C)(1)(b);
 - h. Failed to properly label and date any of the containers of hazardous waste in the hazardous waste accumulation area, in violation of OAC rule 3745-52-34(A)(2) and (3);
 - i. Failed to inspect areas of the Facility where hazardous waste was stored and failed to record the inspections, in violation of OAC rule 3745-66-74;
 - j. Operated an unpermitted thermal treatment system to evaporate waste water, generated from washing drums, in violation of ORC § 3734.02 (E) and (F); and
 - k. Caused F002 listed hazardous waste to be transported to an unpermitted facility, in violation of ORC § 3734.02 (F).
6. By letter dated March 10, 2003, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders and requested a response.
 7. By letter dated April 8, 2003, Respondent responded to Ohio EPA's March 10, 2003 letter.
 8. By letter dated May 28, 2003, Ohio EPA notified Respondent that Respondent had returned to compliance for the violations noted in Findings Nos. 5.d. through 5.i. and 5.k.
 9. By letter dated June 4, 2003, Respondent provided additional information to Ohio EPA regarding the violations noted in Findings Nos. 5.a., b., c., and j.
 10. By letter dated July 18, 2003, Ohio EPA notified Respondent that Respondent had returned to compliance for the violations noted in Findings Nos. 5.a., b., c., and j.
 11. The Orders do not reserve Ohio EPA's right to require Respondent to perform closure of any hazardous waste treatment unit at the Facility because the unit is no longer at the Facility and there was no evidence of any release at the Facility. In addition, there is no longer any hazardous waste at the Facility.

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 \$50,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$12,500.00;
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$12,500.00;
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$12,500.00;
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$12,500.00.

Payment 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, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. 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 East Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, 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:

Christopher Jones, 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 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. 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

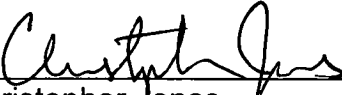
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Christopher Jones
Director

July 7, 2004

Date

IT IS SO AGREED:

National Container Group, LLC



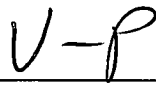
Signature

6/21/04

Date



Printed or Typed Name



Title