

**BEFORE THE OHIO  
ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:  
Chemical Solvents, Inc.  
3751 Jennings Road  
Cleveland, OH 44109

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:  
:  
:

Directors Final Findings  
and Orders

OHIO E.P.A.  
SEP - 9 2004  
ENTERED DIRECTOR'S JOURNAL

**PREAMBLE**

It is agreed by the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Chemical Solvents, 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 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 3753 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of the Ohio EPA has determined the following findings:

1. Respondent is a permitted recycling facility located at 1010 Denison Avenue in Cleveland, Ohio. Pentane is a new material and is sold to industrial users. Pentane is a regulated substance listed in Ohio Administrative Code (OAC) rule 3745-104-04 and has a threshold of 10,000 pounds. The quantity of pentane reported in the Risk Management Plan (RMP) is 75,060 pounds for the drum filling process.
2. 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 this rule by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999. Respondent submitted an RMP in February 2004, as a Program level 2 process.

3. On December 15, 2003, a letter was sent to approximately sixty facilities inquiring as to whether their facility could potentially be subject to the RMP regulations. A letter from Chemical Solvents was received by Ohio EPA on June 2, 2003 stating a negative declaration. In January of 2004, a call was received by the Respondent indicating that they were subject to the RMP regulations and have had pentane on site and over the threshold since June 1999. An RMP was submitted in February 2004. The RMP has no affected population for the worst case scenario and the process could potentially be a Program Level 1. However, attempts to have the RMP submitted as a Program Level 1 process by Ohio EPA have failed. Since the RMP was submitted as a Program Level 2, the Respondent was out of compliance with the following rules since June 1999:
  - a. Respondent failed to have a hazard assessment, as required by OAC rule 3745-104-15.
  - b. Respondent failed to have a management system for a Program Level 2 process, as required by OAC rule 3745-104-07.
  - c. Respondent failed to have safety information, as required by OAC rule 3745-104-17.
  - d. Respondent failed to conduct a hazard review, as required by OAC rule 3745-104-18.
  - e. Respondent failed to have written operating procedures, as required by OAC rule 3745-104-19.
  - f. Respondent failed to provide training, as required by OAC rule 3745-104-20.
  - g. Respondent failed to have a maintenance program, as required by OAC rule 3745-104-21.
  - h. Respondent failed to conduct a compliance audit, as required by OAC rule 3745-104-22.
  - i. Respondent failed to conduct incident investigations, as required by OAC rule 3745-104-23.

4. The Director has given consideration to, and based on his determination on, evidence relating 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. Respondent shall comply with the RMP program for a Program Level 1 process no later than November 15, 2004 by installing or modifying a dike that will contain the material in case of a catastrophic release. The dike dimensions shall be such that the worst case release distance to the endpoint will not exceed 0.07 miles.
2. Pursuant to ORC section 3753.09, Respondent is assessed a civil penalty in the amount of ten thousand six hundred sixty eight dollars (\$10,668) in settlement of Ohio EPA's claim for civil penalties. Respondent shall pay to Ohio EPA the amount of ten thousand six hundred sixty eight dollars (\$10,668) of the total penalty pursuant to the following schedule:

five thousand three hundred thirty four dollars (\$5,334) due no later than thirty (30) days after the effective date of these orders; and

five thousand three hundred thirty four dollars (\$5,334) due no later than sixty (60) days after the effective date of these orders.

The civil penalty shall be credited to the risk management plan reporting fund created in section 3753.05 of the Revised Code. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for ten thousand six hundred sixty eight dollars (\$10,668). The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Brenda Case, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

A copy of the check shall be sent to:

Jim Orlemann  
Manager, Engineering Section  
Ohio Environmental Protection Agency  
Division of Air Pollution Control  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is the principal executive officer or his duly authorized employee.

## **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 Respondent.

## **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**

The 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 the 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: Sherri Swihart

#### **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 resolved 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 services 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**

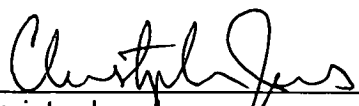
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

#### **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:**

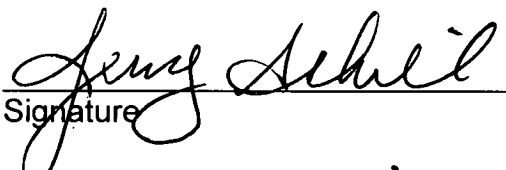
**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Christopher Jones  
Director

8-2-04  
Date

**IT IS AGREED:**

**Chemical Solvents**

  
\_\_\_\_\_  
Signature

8-24-04  
Date

JERRY Schill  
Printed or Typed Name

8-24-04  
Date

V.P.  
Title