

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Queen City Barrel Company :  
1937 South Street : Director's Final Findings  
Cincinnati, Ohio : and Orders  
45204 :

OHIO E.P.A.  
DEC 31 2003  
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 Queen City Barrel Company ("Respondent"), pursuant to the authority vested in the Director of 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 the facility known as Queen City Barrel Company 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 meanings as used in ORC Chapter 3704 and the rules promulgated thereunder.

IV. FINDINGS

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

1. Respondent owns and operates a drum reconditioning facility located at 1937 South Street, Cincinnati, Ohio.
2. On February 4, 1988, Respondent was issued Director's Final Findings and Orders for the noncomplying incinerator (emissions unit N001) at the facility.

3. On June 16, 1989, Respondent entered into a Consent Decree filed in the United States District Court for the Southern District of Ohio for violations associated with the operation of the facility.
4. On October 30, 2000, Respondent was issued Final Director's Findings and Orders before the Office of Environmental Management, City of Cincinnati.
5. On June 20, 2001, Respondent was issued a Final Title V permit to operate the facility. Part III, Section V, Item 1.a of the special terms and conditions for emissions units K001, K002, K003, K004, K006 and N001 (pages 19, 24, 29, 34, 41, and 46) required Respondent to conduct emissions testing by no later than December 20, 2001.
6. On July 3, 2002, the Hamilton County Division of Environmental Services ("HCDES") issued a notice of violation to Respondent for failing to conduct the emissions tests in accordance with the requirements of the Title V permit. Failure to conduct the required tests by the December 20, 2001 deadline constitutes a violation of ORC 3704.05(C).
7. Ohio Administrative Code ("OAC") rule 3745-77-07(B)(5) requires Respondent to submit by no later than April 30, 2002 a compliance certification for the facility.
8. On June 11, 2002, HCDES issued a notice of violation to Respondent for failing to submit the annual certificate of compliance. Failure to submit the certificate of compliance constitutes violations of OAC rule 3745-77-07(B)(5) and ORC 3704.05(G).
9. On August 13, 2002, HCDES received an incomplete certificate of compliance dated August 2, 2002 from Respondent. Respondent indicated that emissions unit K004 had been permanently shut down.
10. On September 4, 2002, Respondent conducted an emissions test of the reclamation furnace (emissions unit N001). To date, Respondent has not tested the coating lines (emission units K001-K003 and K006). Failure to comply with the testing requirement in the Title V permit constitutes a violation of ORC 3704.05(C).
11. On September 24, 2002, HCDES sent a letter to Respondent regarding the incompleteness of the certificate of compliance referenced in Finding (9).
12. On October 25, 2002, Respondent submitted a complete certificate of compliance. Respondent documented periods of time when records that are required to be kept for emissions units F001, K001-K004 and K006, pursuant to the Title V, permit were not kept. Failure to keep the required records constitutes

violations of ORC 3704.05(C).

13. On October 22, 2003, HCDES conducted an investigation following an odor complaint in the Lower Price Hill area. The inspector traced the odors to QCB. During the inspection, an unpermitted steel drum coating operation was discovered. Analyses of the coating indicated a VOC content of 4.52 pounds VOC/gallon of coating. HCDES witnessed approximately one hundred thirty 55-gallon drums being coated with the yellow paint.

14. On October 29, 2003, HCDES issued a notice of violation to Respondent. The NOV addressed the coating line described in Finding (13) that was installed without QCB first applying for and obtaining a permit to install (PTI). Failure to apply for and obtain a PTI constitutes a violation of OAC rule 3745-31-02 and RC §3704.05(C). Failure to include the exterior drum coating operation in the Title V application constitutes a violation of OAC rule 3745-77-03 and RC §3704.05(C). Operating the exterior drum coating operation without a permit to operate constitutes a violation of OAC rule 3745-77-02 and RC §3704.05(C). Operating the exterior drum coating operation with a VOC paint content greater than 3.5 pounds of VOC per gallon (minus water and exempt solvents) constitutes a violation of OAC rule 3745-21-09(U)(1)(f) and RC §3704.05(C).

15. 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 benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. QCB shall immediately cease the operation of the exterior drum coating operation that was found to be the source of the odor complaint on October 22, 2003.
2. On or before December 31, 2003, Respondent shall conduct the emissions testing specified in pages 19, 24, 29, and 41 of the June 20, 2001 Title V permit. No later than thirty (30) days prior to the proposed test date, Respondent shall submit an "Intent to Test" notification to the HCDES. The "Intent to Test" notification shall describe in detail how the requirements of the Title V testing shall be met, the emission units' operating parameters, time and date of the test, and the person who will be conducting the test. Failure to submit such notification for review and approval prior to the test may result in Ohio EPA's refusal to accept the results of

the emissions test.

Personnel from Ohio EPA and/or HCDES shall be permitted to witness the test, examine the testing equipment, and acquire data and information necessary to ensure that the operation of the emission units and/or the performance of the air pollution control equipment.

A comprehensive written report on the results of the emissions tests shall be signed by the person or persons responsible for the tests and submitted to HCDES within 30 days following completion of the test(s).

2. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of twenty-six thousand six hundred twenty-five dollars (\$26,625) in settlement of Ohio EPA's claim for civil penalties. Respondent shall pay to Ohio EPA the amount of twenty-six thousand six hundred twenty-five dollars (\$26,625) pursuant to the following schedule:

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within thirty (30) days after the effective date of these Orders;

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within sixty (60) days after the effective date of these Orders;

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within ninety (90) days after the effective date of these Orders;

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within one hundred twenty (120) days after the effective date of these Orders;

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within one hundred fifty (150) days after the effective date of these Orders;  
and

four thousand four hundred thirty-seven dollars and 50/100 (\$4,437.50) due within one hundred eighty (180) days after the effective date of these Orders.

Payment shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted together with a letter identifying the Respondent and the Facility to the following:

Brenda Case  
Fiscal Administration  
Ohio Environmental Protection Agency  
Lazarus Government Center  
P.O. Box 1049  
Columbus, Ohio 43216-1049

A copy of each check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the following address:

Division of Air Pollution Control  
Ohio Environmental Protection Agency  
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, Robert Hodanbosi, 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 as defined in OAC rule 3745-77-01(GG)(1).

#### **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 laws or regulations applicable to Respondent.

### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties. 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:

Tammy VanWalsen  
Environmental Supervisor  
Ohio EPA/DAPC  
P.O. Box 1049  
Columbus, Ohio 43216-1049

and to:

Bradley Miller  
HCDES  
250 William Howard Taft Rd.  
Cincinnati, Ohio  
45219

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 admissions 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, the 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 an 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

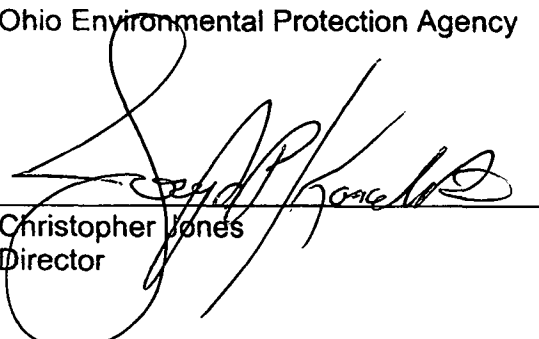
The effective date of these orders is the date these orders are entered into the Ohio EPA Director's journal.

## 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

12/31/03  
\_\_\_\_\_  
Date

**IT IS SO AGREED:**

Queen City Barrel Company

Edward G. Paul, Pres.

12-19-03

Signature

Date

Edward G. Paul  
President