

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUL 17 2003
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Dupont Electronic Polymers L.P.
1515 Nicholas Road
Dayton, Ohio 45418

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 Dupont Electronic Polymers L.P. (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 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 operates a micro-electronic and developmental production plant involved in the manufacture of chemical products for the electronics industry located at 1515 Nicholas Road, Dayton, Ohio (Facility).
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004855292 and permit identification number 05-57-0433.
4. 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, including spent solvents (F003/F005), ignitable wastes (D001), corrosive wastes (D002), reactive wastes (D003) and other hazardous wastes displaying the characteristics of toxicity. Respondent is a large quantity generator of hazardous waste and is permitted to store hazardous waste at the Facility.
5. On January 13, 2003, Ohio EPA conducted an inspection at the Facility, and determined that Respondent had:
 - a. Failed to properly conduct and record daily inspections of permitted hazardous waste storage areas, in violation of OAC rule 3745-54-15, OAC rule 3745-54-73, Permit Condition B.4 and Permit Condition C.8;
 - b. Failed to mark a container of hazardous waste with a description of its contents and the accumulation start date, in violation of OAC rule 3745-270-50(A)(2)(a);
 - c. Failed to provide secondary containment for a hazardous waste tank system ancillary equipment, in violation of OAC rule 3745-66-93(F); and
 - d. Failed to comply with the terms and conditions of the hazardous waste permit, in violation of ORC § 3734.11(B) and Permit Condition A.5.

By letter dated January 23, 2003, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.

6. On January 27, 2003, Respondent contacted Ohio EPA and self-reported that a Facility employee had fabricated weekly inspection records from July 2002 through December 2002. The fabricated inspection records were provided to Ohio EPA during Ohio EPA's January 13, 2003 inspection of the Facility.
7. On January 30, 2003, Ohio EPA met with Respondent to discuss the fabricated records referenced in Finding No. 6. of these Orders.
8. By letter dated February 21, 2003, Respondent submitted documentation to Ohio EPA in response to Ohio EPA's January 23, 2003 letter.
9. By letter dated March 31, 2003, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.b. and 5.c. of these Orders. In this same letter, Ohio EPA notified Respondent that it had failed to properly conduct and record weekly inspections of the permitted storage area, in violation of OAC rule 3745-54-15, OAC rule 3745-54-73, OAC rule 3745-50-58(A), Permit Condition B.4, Permit Condition C.8, Permit Condition C.9, Permit Condition A.5 and ORC § 3734.11(B).
10. Based upon the incident referenced in Finding No. 6. of these Orders regarding the falsification of the weekly inspection records, the Director has determined that Respondent violated ORC § 3734.05(G) which provides that "[N]o person shall falsify or fail to keep or submit any plans, specifications, data, reports, records, manifests, or other information required to be kept or submitted to the director or to the hazardous waste facility board by this chapter or the rules adopted under it." Furthermore, based upon Respondent's self reporting of this incident and personnel actions taken against the employee in question, the Director has determined that Respondent has abated this violation.
11. By letter dated April 16, 2003 and facsimile dated May 8, 2003, Respondent submitted documentation to Ohio EPA in response to Ohio EPA's March 31, 2003 letter.
12. By letter dated May 14, 2003, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.a., 5.d. and 9. of these Orders. In this same letter, Ohio EPA notified Respondent that it had failed to obtain and keep on file a written assessment certifying that hazardous waste tank T-66 was properly designed and installed, in violation of OAC rule

3745-66-92.

V. ORDERS

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

1. Within 60 days after the effective date of these Orders, Respondent shall obtain a written tank assessment for Tank T-66 in accordance with OAC rule 3745-66-92.
2. Within 14 days after obtaining the written tank assessment, Respondent shall submit the written assessment to Ohio EPA for review and approval.
3. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$ 24,200 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. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$ 24,200. The official check 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 this check shall be submitted in accordance with Section X. of these Orders.

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 Ohio EPA's Division of Hazardous Waste Management 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 a corporate officer who is in charge of a principal business function of Respondent.

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
Southwest District Office
Division of Hazardous Waste Management
401 East Fifth Street
Dayton, Ohio 45402-2911
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

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 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

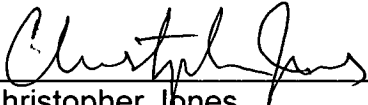
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Christopher Jones
Director

JUL 17 2003

Date

IT IS SO AGREED:

Dupont Electronic Polymers L.P.



Signature

7-7-03

Date

W. Richard Russell

Printed or Typed Name

PLANT MANAGER

Title