

OHIO E.P.A.

APR 24 2002

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Chemtron Corporation
35850 Schnieder Court
Avon, Ohio 44011

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Chemtron Corporation (Respondent) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under § 3734.13 and § 3745.01 of the Ohio Revised Code (ORC):

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 relating to the Facility described below shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the director of Ohio EPA.

III. DEFINITIONS

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.
2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA director's journal.

IV. FINDINGS OF FACT

The director of Ohio EPA has determined the following findings of fact:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent, a corporation for profit, was registered to do business in Ohio on October 13, 1967.
3. Respondent is an owner/operator of a permitted hazardous waste treatment and storage facility located at 35850 Schnieder Court, Avon, Ohio (Facility). On September 30, 1994, Respondent was issued an Ohio Hazardous Waste Facility Installation and Operation Permit (Number 02-47-0431). Respondent is permitted to treat and store hazardous wastes in tanks and containers.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined in ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03.
5. On or about March 27, 2001, the owner/operator of The Little Tikes Company located in Hudson, Ohio, discovered that a leased, empty trailer was stolen. About the 1st week of April, the trailer was found in Parma, Ohio, containing approximately 29 containers of unknown waste.
6. On April 19, 2001, Ohio EPA sampled the containers referred to in Finding No. 5. Respondent assisted Ohio EPA with the sampling event.
7. Respondent was hired by Ohio EPA, Special Investigation Unit (SIU), to evaluate and properly dispose of certain unidentified containers in the abandoned Little Tikes trailer. Thereafter, Little Tikes contracted with Respondent to perform emergency response work.
8. On May 10, 2001, Respondent transported the containers to the Facility. The waste was managed as solid waste, with some waste transported to the BFI Ottawa County Landfill (landfill), a solid waste facility which did not have a permit to manage hazardous waste.
9. On June 13, 2001, Ohio EPA received the analytical report from the April 19, 2001 sampling event. The results indicated that one sample collected contained chromium, in a quantity which exceeded the regulatory limit, making that container's contents a D007 hazardous waste.

10. Respondent was informed of this result and instructed by Ohio EPA to contact the landfill and retrieve the waste from containers transported to the landfill.
11. The landfill informed Respondent that the waste at issue was placed into a mix pit prior to disposal and subsequently disposed at the landfill.
12. As a result of the above findings, Ohio EPA determined that Respondent, inter alia, transported hazardous waste to a facility which did not have a permit to manage of hazardous waste, in violation of ORC § 3734.02(F) and Permit Condition A.1.
13. By letter dated September 26, 2001, Ohio EPA notified Respondent of the determination referenced in Finding No. 12.

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 thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance 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 tendering a certified check for \$10,000 to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the certified check required above.

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 signatory to these Orders, for any liability arising out of or relating to the operations 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
2110 E. Aurora Road
Twinsburg, Ohio 44087

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
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall

be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:



Christopher Jones
Director

APR 24 2002

Date

XII. WAIVER

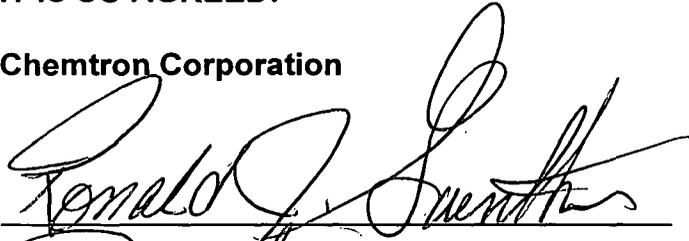
In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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.

IT IS SO AGREED:

Chemtron Corporation



President

Title

4-4-02

Date

Ohio Environmental Protection Agency



Christopher Jones
Director

APR 24 2002

Date