

OHIO E.P.A.  
JUN 28 2001  
DIRECTOR'S JOURNAL

**BEFORE THE**  
**OHIO ENVIRONMENTAL PROTECTION AGENCY**

**In the Matter of:**

<b>Providence Hospital, Inc.</b>	:	<b><u>Director's Final</u></b>
<b>1912 Hayes Avenue</b>	:	<b><u>Findings and Orders</u></b>
<b>Sandusky, Ohio 44870</b>	:	

**PREAMBLE**

It is hereby agreed that:

**I. JURISDICTION**

These Director's Final Findings and Orders are issued to Providence Hospital, Inc. (Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under sections 3704.03 and 3745.01 of the Ohio Revised Code (ORC).

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and its assigns and successors in interest.

**III. DEFINITIONS**

Unless otherwise stated, all terms used in these Findings and Orders shall have the same meaning as used in Chapter 3704 of the ORC and the regulations promulgated thereunder.

**IV. FINDINGS OF FACT**

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

1. Respondent is a not for profit corporation duly organized under the laws of the State of Ohio, with its main offices located in Sandusky, Ohio, which operates a hospital located at 1912 Hayes Avenue, Sandusky, Erie County, Ohio (facility ID #03-22-01-0104).

2. At the Sandusky facility, prior to September 15, 2000, Respondent operated a medical waste incinerator as source N002. Source N002 is an "air contaminant source" as defined by Ohio Administrative Code (OAC) rules 3745-35-01(B)(1) and 3745-15-01(W) and a "new source" as defined by OAC rule 3745-31-01(Y). Source N002 emitted "particulate matter" (PM), as defined by OAC rule 3745-17-01(B)(12), and was subject to the PM emission control requirements of OAC rule 3745-17-09, as well as the emission limitations required by OAC rule 3745-75-02.

3. OAC rule 3745-17-09 requires that no person shall operate incinerators having capacities equal to or greater than 100 pounds per hour in such a way to emit particulate matter in excess of 0.10 pound per one hundred pounds of materials charged and that incinerators be designed, operated and maintained to prevent the emissions of objectionable odors.

4. On August 23, 1989 and April 17, 1992, Ohio EPA issued to Respondent a permit to install (PTI) #03-4228 and a permit to operate (PTO), respectively, for source N002. The permits require Respondent to operate source N002 in such a manner to ensure compliance with OAC rules 3745-17-09 and 3745-75-02, as well as the best available technology requirements established pursuant to OAC rule 3745-31-02. The emission limitations for source N002 are displayed, in part, in Table One.

Table One, Source N002 Emissions Limits

<u>Pollutant</u>	<u>Pounds per hour</u>	<u>Tons per year</u>
Particulate Matter	0.365	1.6
Hydrogen Chloride	4.0	17.5
Nitrogen Oxides	0.30	1.3

5. Respondent conducted a stack test on source N002 on April 22, 1998. The test results failed to demonstrate that source N002 emits particulate matter (PM) in compliance with the allowable emission limitation. In addition, the test for hydrochloric acid was invalid as the incinerator was not operating at 90 percent capacity during the test.

6. By letter dated May 28, 1998, Ohio EPA informed Respondent that it was operating source N002 in violation of OAC rule 3745-75-02(B) and its permit terms and conditions.

7. By letters dated May 28, June 26, September 28, December 10, and December 17 and 24, 1998, Respondent updated Ohio EPA of its progress towards correcting the compliance problems with source N002.

8. On January 5, 1999, Respondent conducted a stack test on source N002. The test results demonstrated compliance with PM and HCl limitations but failed to demonstrate compliance with the NOx limitations.

9. On May 10, 1999, Respondent submitted a PTI application (PTI #03-3231) for source N002. Respondent provided updated emissions information and the limitation was changed to reflect that of the January 7, 1999 test result. This limitation now allows source N002 to demonstrate compliance with the NOx limit. Respondent began operating source N002 pursuant to the terms of the PTI application on May 10, 1999. The limitations and restrictions listed, in part, in Table Two, ensure compliance with OAC rules 3745-17-09, 3745-75-02 and the best available technology requirements established in PTI #03-4228:

Table Two, Source N002 Emissions Limits

<u>Pollutant</u>	<u>Pounds per hour</u>	<u>Tons per year</u>
Particulate Matter	0.365	0.365
Hydrogen Chloride	4.0	4.0
Nitrogen Oxides	0.62	0.62

10. On September 15, 2000, Respondent notified that Ohio EPA that, as of that date, it would cease operating source N002 and that it did not intend to submit a Title V permit application.

11. 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. Pursuant to ORC 3704.06, Respondent is assessed a civil penalty in the amount of twenty-seven thousand seven hundred sixty-two dollars (\$27,762) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twenty-two thousand two hundred ten dollars (\$22,210) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Edith Long, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration  
Ohio Environmental Protection Agency  
P.O. Box 1049  
Columbus, Ohio 43216-1049

The remaining five thousand five hundred fifty-two dollars (\$5,552) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Respondent shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry  
Ohio Department of Natural Resources  
1855 Fountain Square Court, H-1  
Columbus, Ohio 43224-1327

A copy of both checks 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  
P.O. Box 1049  
Columbus, Ohio 43216-1049

#### **VI. 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's facility.

#### **VII. RESERVATION OF RIGHTS**

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities at the facility pursuant to ORC Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Respondent.

#### **VIII. SIGNATORIES**

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

#### **IX. WAIVER**


In order to resolve disputed claims, without admission of fact, violation or liability, Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the specific 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 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 event, Respondent shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

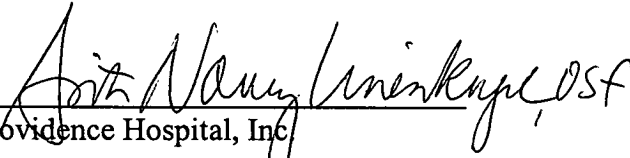
**IT IS ORDERED AND AGREED:**

Ohio Environmental Protection Agency

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

6-27-01  
Date

**IT IS AGREED:**

  
\_\_\_\_\_  
Providence Hospital, Inc

6/20/01  
Date

CEO  
\_\_\_\_\_  
Title