



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Craig W. Butler, Director

June 21, 2016

Northern Chemical Blending Corp
360 Literary Road
Cleveland, Ohio 44113

**Re: Northern Chemical Blending Corporation
Director's Final Findings and Orders (DFFO)
DFFO
RCRA C - Hazardous Waste
Cuyahoga County
OHR 000 127 902**

Subject: Final Findings and Orders of the Director

Dear Sir or Madam:

Transmitted herewith are the Final Findings and Orders of the Director concerning the matter indicated for Northern Chemical Blending Corporation.

Enclosed are invoices for the total penalty amount of \$5,000.00 required by the orders. The penalty payment(s) shall be made by official check(s) made payable to "Treasurer, State of Ohio."

If you have any questions, please contact Andrea Smoktonowicz at (614) 644-3180.

Sincerely,

A handwritten signature in black ink that reads "D. Crumiell-Hagens".

Demitria Crumiell-Hagens, Administrative Professional II
Division of Materials & Waste Management

Enclosure

cc: Tammy Heffelfinger, DMWM, CO
Andrea Smoktonowicz, Legal
Natalie Oryshkewych, Legal

OHIO E.P.A.

JUN 21 2016

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

**Northern Chemical Blending
Corporation, Inc.**
360 Literary Road
Cleveland, Ohio 44113

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Northern Chemical Blending Corporation, Inc. (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 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 custom chemical blending facility located at 360 Literary Road, Cleveland, Cuyahoga County, Ohio 44113 (Facility).
3. Respondent is a small quantity generator of "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03, which means Respondent generates greater than one hundred kilograms but less than one thousand kilograms of hazardous waste in a calendar month. Respondent has been assigned EPA ID number OHR000127902. At the Facility, Respondent generates the following hazardous wastes: chrome wash waste (D007) and sodium cyanide wastewater (D003) as described in OAC rules 3745-51-24 (toxicity, chromium), and 3745-51-23 (reactive) respectively. Respondent is also a "small quantity handler of universal waste" spent "universal waste lamps" as those terms are defined in OAC rule 3745-273-09.
4. On October 20, 2014, Ohio EPA received an anonymous complaint alleging numerous unlabeled containers of waste within the building at the Facility.
5. On November 6, 2014, Ohio EPA conducted a complaint investigation inspection at the Facility. During this inspection, Ohio EPA observed many unlabeled containers, several of which were in poor condition, and some containers were leaking their contents onto the ground outside the building. Ohio EPA also observed an unlabeled container of universal waste lamps. As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*, failed to evaluate wastes at the Facility, including waste leaking out of a container onto the ground outside the building, waste in many containers that were in poor condition inside the building, and approximately seven totes of wastewater containing sodium cyanide, in violation of OAC rule 3745-52-11.
6. By letter dated November 21, 2014, Respondent was notified of the violations referenced in Finding No. 5. of these Orders.
7. By electronic mail during the month of December 2014, Respondent provided Ohio EPA with material safety data sheets for their products and profile sheets for some of their wastes.
8. By letter dated January 5, 2015, Respondent informed Ohio EPA they were categorizing all containers into raw materials, finished product, non-hazardous waste and hazardous waste.

9. On January 12, 2015, Ohio EPA conducted a site visit to assess Respondent's progress with evaluation and organization of the waste and/or materials on-site. Ohio EPA observed that some of the containers identified as hazardous waste had been labeled, but others had not, and none of the containers contained an accumulation start date. Based upon the amount of hazardous waste Ohio EPA observed at that time at the Facility, Ohio EPA determined that Respondent had exceeded the 2,200 pound (or 1,000 kilogram) accumulation limit for conditionally exempt small quantity generators, making Respondent subject to small quantity generator requirements as described in OAC rule 3745-51-05(G). Further, Ohio EPA determined that Respondent had actually exceeded the 13,200 pound (or 6,000 kilogram) total accumulation on-site limit for small quantity generators resulting in the requirement of a permit as described in OAC rule 3745-52-34(D) and (F). As a result of this inspection, Ohio EPA determined that Respondent, *inter alia*:
 - a. Accumulated greater than 13,200 pounds of hazardous waste at the Facility without a permit, in violation of ORC § 3734.02(E) and (F). Because Respondent exceeded the allowable amount of accumulated hazardous waste at the Facility, the areas where hazardous wastes were stored are now considered hazardous waste management units;
 - b. Failed to conduct and log inspections of emergency equipment, in violation of OAC rule 3745-65-33;
 - c. Failed to label and date containers of hazardous waste in violation of OAC rule 3745-52-34(D); and
 - d. Failed to conduct and log weekly inspections of the container storage areas, in violation of OAC rule 3745-66-74.
10. By letter dated January 14, 2015, Respondent was notified of the violations referenced in Finding No. 9. of these Orders.
11. By electronic mail dated January 28, 2015, Respondent provided Ohio EPA with an updated container list showing which containers were sampled and sent for profiling to an authorized facility, fluorescent lamp manifest documents, and notice of the intent to ship wastes in February 2015.
12. On February 13, 2015, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent had not corrected any of the outstanding violations referenced in Findings Nos. 5. and 9. of these Orders.

13. By letter dated February 24, 2015, Ohio EPA notified Respondent of the outstanding violations as referenced in Finding No. 12. of these Orders and provided Respondent with an updated container list from the February 13, 2015 inspection of the Facility.
14. On April 8, 2015, Ohio EPA was notified of a fire by the Northeast Ohio Regional Sewer District involving chemicals at the Facility.
15. On April 8, April 13, April 29, and May 29, 2015, Ohio EPA conducted compliance evaluation inspections at the Facility. As a result of the inspections, Ohio EPA determined that the violations referenced in Findings Nos. 5. and 9. had not been corrected and that Respondent, *inter alia*:
 - a. Failed to maintain and operate the facility to minimize the possibility of a fire, explosion or release, in violation of OAC rule 3745-65-31;
 - b. Failed to maintain adequate aisle space in the container storage area, in violation of OAC rule 3745-65-35;
 - c. Failed to maintain containers of hazardous waste in good condition, in violation of OAC rule 3745-66-71;
 - d. Failed to use a container compatible with the hazardous waste being store within it, in violation of OAC rule 3745-66-72; and
 - e. Failed to keep all containers holding hazardous waste closed, in violation of OAC rule 3745-66-73.
16. By letter dated June 12, 2015, Respondent updated Ohio EPA of its activities to identify and properly manage waste at the Facility. This letter included a hazardous waste manifest for the waste generated from the fire at the Facility.
17. By letter dated July 28, 2015, Respondent was notified of the violations referenced in Finding No. 15. of these Orders and that the violations referenced in Findings Nos. 15.b. and 15.d. of these Orders were corrected during the inspections.
18. By letter dated July 31, 2015, Respondent provided information to Ohio EPA regarding spills observed at the Facility, residue in the solid waste dumpster, and the status of drum sample analytical results.
19. On August 26, 2015, Ohio EPA conducted a compliance evaluation inspection at the Facility. Respondent provided Ohio EPA with additional responses to the

July 28, 2015 letter referenced in Finding No. 17. of these Orders. This response included photos of cleaned up spills, manifests, and statements pertaining to the repacking of wastes and product materials into containers of good condition. Ohio EPA reviewed inspection logs of emergency equipment testing and the container storage area inspections, observed that previously identified spills were removed, and confirmed that containers of hazardous waste were no longer present at the Facility. During this inspection, Ohio EPA also identified three new spills around the Facility.

20. Based upon the August 26, 2015 inspection and the documentation provided by Respondent referenced in Finding No. 19. of these Orders, Ohio EPA determined that Respondent, *inter alia*, failed to evaluate the wastes generated by three newly observed spills, in violation of OAC rule 3745-52-11.
21. By letter dated October 6, 2015, Ohio EPA notified Respondent of the violations referenced in Finding No. 20. of these Orders. This letter also notified Respondent that the violations referenced in Findings Nos. 9.b., 9.c., 9.d., 15.a., 15.c., and 15.e. of these Orders were corrected.
22. By letters dated February 29, and April 4, 2016, Respondent submitted documentation of spill waste evaluation and clean-up activities conducted for the floor of the Facility where hazardous waste was stored as referenced in Finding No. 9.a. of these Orders.
23. Based upon a review of the documentation submitted by Respondent as referenced in Finding No. 22. of these Orders, the Director has determined that Respondent has corrected the violations referenced in Findings Nos. 5. and 20. of these Orders.
24. By electronic mail dated May 16, 2016, Respondent's attorney outlined Respondent's financial hardships over the past few years which includes economic downturn, potential bankruptcy, late payments, back taxes, and former employee embezzlement.
25. Based upon a review of all financial information submitted by Respondent on March 7 and 18, April 1 and 25, and May 16, 2016, Ohio EPA determined that Respondent does not possess the financial ability to pay the entire civil penalty settlement proposed in the Director's letter of January 18, 2016.
26. Following the 2015 inspections, Respondent conducted clean-up activities for the floor of the Facility where Ohio EPA observed numerous containers as referenced in Finding No. 9.a. of these Orders. Ohio EPA inspected the area and determined it is in good condition. Respondent has stated that these areas are

still used for operational needs and it is no longer generating hazardous waste. Based upon this information, the Director has determined there is nothing further required of Respondent at this time with regard to the violation of ORC §3734.02 (E) and (F) referenced in Finding No. 9.a. of these Orders.

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 30 days of the effective date of these Orders, Respondent shall submit to Ohio EPA, in accordance with Section X. of these Orders, an inventory of all containers of raw material and product present at the Facility. The inventory shall include identification of the quantity and type of chemicals, dates they were entered into the Facility's inventory, if they were used or sent off-site, their location at the Facility, and any expiration dates associated with them. An updated inventory shall be submitted in accordance with Section X. of these Orders every 90 days following the first submittal for a total of four inventory submittals. This inventory may be submitted by U.S. postal mail or by electronic mail. Compliance with this Order will abate the violations referenced in Finding No.9.a. of these Orders.
2. Respondent shall pay to Ohio EPA the amount of \$5,000.00 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 pursuant to the following schedule:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,250.00;
 - b. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,250.00;
 - c. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,250.00; and
 - d. Within 300 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$1,250.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each 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 the Chief of Ohio EPA's Division of Materials and 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 [e.g., 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
Northeast District Office
Division of Environmental Response and Remediation
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Hazardous Waste Program Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Remediation
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Remediation
50 West Town Street
Columbus, Ohio 43215

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

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure of the hazardous waste management units as well as corrective action at the Facility, at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to performing such corrective action. Ohio EPA and Respondent each reserve all other 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. Except for the right to seek closure of the hazardous waste management units and corrective action at the Facility by Respondent, which right Ohio EPA does not waive, 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

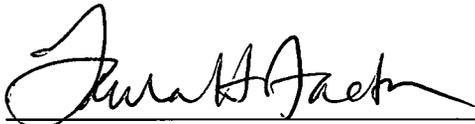
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

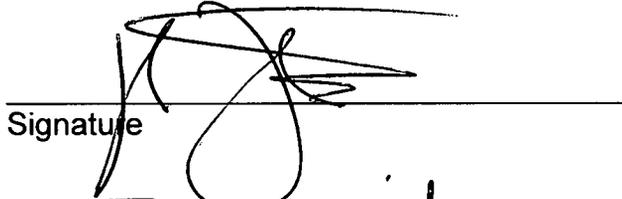
Ohio Environmental Protection Agency



Craig W. Butler
Director

IT IS SO AGREED:

Northern Chemical Blending Corporation, Inc.



Signature

JOHN Zemanitis

Printed or Typed Name

6/1/16
Date

Pres. / owner N.C.B.C.
Title