

OHIO E.P.A.

BEFORE THE
NOV 16 2016 OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

PPG Industries Ohio, Inc.
3800 West 143rd Street
Cleveland, Ohio 44111

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 PPG Industries Ohio, 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 an automotive coatings manufacturing facility located at 3800 West 143rd, Street, Cleveland, Cuyahoga County, Ohio 44111 (Facility).
3. 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. Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD004460143. The hazardous wastes generated by Respondent at the Facility include: paint (D001 – ignitability, D035 - toxicity); solvent (D001 – ignitability, D035 – toxicity, F003 – listed for ignitability, F005 – listed for toxicity and ignitability); spent filters and trash (D035 – toxicity); waterborne process water (D001 – ignitability, D035 - toxicity); and still sludge (D001 – ignitability, D035 – toxicity, F003 – listed for ignitability, F005 – listed for toxicity and ignitability) as described in OAC rules 3745-51-21 (ignitability), 3745-51-24 (toxicity, methyl ethyl ketone) and 3745-51-31 (hazardous waste from non-specific sources), respectively. Respondent is also a "small quantity handler of universal waste" spent "batteries" as those terms are defined in OAC rule 3745-273-09.
4. On June 30, July 1 and July 7, 2015, Ohio EPA conducted compliance evaluation inspections at the Facility. During these inspections, Ohio EPA observed at least 24 containers of hazardous paint related wastes in multiple areas that had been stored greater than the allowed 90 days. Additionally, Ohio EPA noted at least nine containers of hazardous waste that were not labeled, and at least 70 containers of hazardous waste that were not marked with an accumulation start date. Ohio EPA documented that required aisle space in the container storage areas was not maintained, containers of hazardous waste were not kept closed, the contingency plan was not current, a hazardous waste tank system did not have a written assessment and installation statements, liquid was present in the secondary containment areas for the tanks, land disposal restriction (LDR) notification forms were not maintained at the Facility and universal waste batteries were not labeled. Finally, Ohio EPA documented that Respondent had placed hazardous waste filters (D035) and small containers of paint (D001, D035) into a shredder unit at the Facility. In June 2014 a fire occurred in the shredder unit, but Respondent did not submit a report to the Director notifying Ohio EPA that an event occurred at the Facility that required the contingency plan to be implemented.

5. As a result of the inspections referenced in Finding No. 4. of these Orders, Ohio EPA determined that Respondent, *inter alia*:
- a. Stored at least 24 containers of hazardous paint related waste for greater than the 90 days allowed for large quantity generators, without a hazardous waste facility installation and operation permit, in violation of ORC §3734.02 (E) and (F). Specifically, Ohio EPA documented six containers at the exterior accumulation area on the west side of Building 41, six containers at the exterior accumulation area on the north side of Building 41, and 12 containers in an additional area north of Building 41. The unpermitted storage of hazardous waste in these areas classifies the areas as hazardous waste management units;
 - b. Failed to label and date containers of hazardous waste, in violation of OAC rules 3745-52-34(A)(2) and (3);
 - c. Failed to label satellite accumulation area containers, in violation of OAC rule 3745-52-34(C)(1)(b);
 - d. Failed to provide annual refresher training to one employee, in violation of OAC rule 3745-65-16(C);
 - e. Failed to maintain adequate aisle space in the hazardous waste accumulation areas, in violation of OAC rule 3745-65-35;
 - f. Failed to update the contingency plan with the current emergency coordinator, in violation of OAC rule 3745-65-54(D);
 - g. Failed to submit a report to the Director of Ohio EPA within 15 days of any incident requiring the implementation of the contingency plan, in violation of OAC rule 3745-65-56(I). Following the fire in the shredder unit in June 2014, in which the contingency plan was implemented, Respondent failed to notify the Director of Ohio EPA;
 - h. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of OAC rule 3745-66-73(A);
 - i. Failed to obtain a written assessment and installation statement after modifying an existing hazardous waste tank system, in violation of OAC rules 3745-66-92(A)(B)(D)(E) and (G). Specifically, Tank One in Building 47 was modified to replace the tank bottom and the new tank requirements were not met prior to returning the tank system to use;

- j. Failed to remove waste and accumulated precipitation from the secondary containment system within 24 hours or as timely as possible to prevent harm to human health or the environment, in violation of OAC rule 3745-66-93(C)(4). Specifically, Respondent failed to remove accumulated liquid in each sump of the secondary containment systems of Buildings 41 and 47;
 - k. Failed to retain copies of land disposal restriction (LDR) notification forms at the Facility, in violation of OAC rule 3745-270-07(A)(2) and (8); and
 - l. Conducted treatment of hazardous waste without a hazardous waste installation and operation permit by processing hazardous waste filter media and small containers of hazardous waste paint through the shredder unit at the Facility, in violation of ORC §3734.02 (E) and (F).
6. On August 18, 2015, Ohio EPA conducted a follow-up compliance evaluation inspection to review corrective actions Respondent had taken since the prior inspections referenced in Finding No. 4. of these Orders. Among other things, Ohio EPA observed labeled and dated containers of hazardous waste, noted that liquid had been removed from secondary containment systems of Buildings 41 and 47, and that waste was removed from the unpermitted storage areas and the areas had been cleaned.
7. By letter dated October 21, 2015, Respondent was notified of the violations referenced in Finding No. 5. of these Orders. This letter also informed Respondent that the violations referenced in Findings Nos. 5.b., 5.c., 5.d., 5.e., 5.f., 5.h., 5.j., and 5.k. of these Orders were corrected.
8. By letter dated November 11, 2015 and electronic mail dated November 30, 2015, Respondent provided information in response to Ohio EPA's letter referenced in Finding No. 7. of these Orders. The letter outlined Respondent's decontamination activities of the unpermitted storage areas identified in Finding No. 5.a. of these Orders and included photographs, a copy of the report submitted to the Director notifying Ohio EPA of the implementation of the contingency plan following a fire in the shredder unit as described in Finding No. 4. of these Orders, notification that Respondent retained a consultant to assess the integrity of Tank One referenced in Finding No. 5.i., and a statement that Respondent plans to decommission the shredder unit referenced in Finding No. 5.l. of these Orders.
9. By electronic mail dated January 4 and January 26, 2016, Respondent submitted additional documentation in response to the violations referenced in Findings

Nos. 5.i. and 5.l. of these Orders.

10. A review of the documentation referenced in Finding No. 9. of these Orders has resulted in the determination that Respondent, *inter alia*:
 - a. Is not able to visually detect a slow leak from the bottom-center of Tank One within 24 hours, in violation of OAC rule 3745-66-93(C)(3); and
 - b. Does not have adequate secondary containment for Tank One since the tank's capacity is 5,656 gallons but the secondary containment only accommodates 3,256 gallons, in violation of OAC rule 3745-66-93(E)(1).
11. By letter dated February 18, 2016, Ohio EPA notified Respondent of the violations referenced in Finding No. 10. of these Orders. This letter also informed Respondent that based upon a review of the documentation referenced in Findings Nos. 8. and 9. of these Orders, the violation referenced in Finding No. 5.i. of these Orders will remain outstanding until the detailed written assessment and installation documents for Tank One are submitted. Finally, this letter notified Respondent that the violation referenced in Finding No. 5.g. of these Orders was previously corrected with the submittal of documentation referenced in Finding No. 8. of these Orders.
12. By letter dated March 7, 2016, Respondent notified Ohio EPA that it plans to remove Tank One from service and decontaminate it to address the violations referenced in Findings Nos. 5.i. and 10. of these Orders. This letter explained that as of March 4, 2016, Tank One was emptied of its contents and is no longer being used. This letter also detailed the decontamination activities conducted by Respondent for the unpermitted hazardous waste management units identified in Findings Nos. 4. and 5.a. of these Orders.
13. By letter dated April 11, 2016, Ohio EPA notified Respondent that based upon the information provided by Respondent as referenced in Finding No. 12. of these Orders, the violations referenced in Findings Nos. 5.i. and 10. of these Orders were corrected.
14. By letter dated May 13, 2016, Respondent submitted documentation detailing the decontamination activities conducted on the shredder unit referenced in Finding No. 5.l. of these Orders.
15. Based upon the removal and proper management of the 24 accumulated hazardous paint related waste containers referenced in Findings Nos. 4. and 5.a. of these Orders, the inspection of the unpermitted storage areas on August 18, 2015, as referenced in Finding No. 6. of these Orders, and decontamination

activities of the unpermitted hazardous waste management units referenced in Finding No. 12. of these Orders, the Director has determined that Respondent has met the closure performance standard requirements of OAC rules 3745-55-11(A) and (B) and 3745-55-78 for the areas referenced in Findings Nos. 4. and 5.a. of these Orders and no further action is required to abate the violation referenced in Finding No. 5.a. of these Orders.

16. Based upon Ohio EPA's review of the decontamination activities performed by Respondent on the shredder unit as referenced in Finding No. 14. of these Orders, the Director has determined that Respondent has met the closure performance standard requirements of OAC rules 3745-55-11(A) and (B) and 3745-55-78 for the shredder unit referenced in Finding No. 5.I. of these Orders and no further action is required to abate the violation referenced in Finding No. 5.I. 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 after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$16,960.00 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. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$16,960.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent. A copy of the check shall be sent to Financial Program Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check required by Section V. of these Orders.

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 Revitalization
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 Revitalization
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 Revitalization
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 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 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:

PPG Industries Ohio, Inc.

Keith H. Schneider

Signature

NOVEMBER 4, 2016

Date

KEITH H. SCHNEIDER

Printed or Typed Name

PLANT MANAGER

Title