

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Mike Cassida Date: 10-15-09

OHIO E.P.A.

OCT 15 2009

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

PPG Industries Ohio, Inc.
559 Pittsburgh Road
Circleville, Ohio 43113

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 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 relating to the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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.

IV. FINDINGS OF FACT

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01, including the calculation of an appropriate civil penalty, have been made and are outlined below. Nothing in the findings shall be considered to be

an admission by Respondent of any matter of law or 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 owns and operates a resin manufacturing plant and rotary kiln hazardous waste incinerator (Energy Recovery Unit or ERU) at 559 Pittsburgh Road, Circleville, Pickaway County, Ohio 43113 (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 is a permitted treatment and storage facility. Respondent operates a hazardous waste incinerator, drum storage warehouse and hazardous waste storage tank area. Respondent is permitted to thermally treat wastes generated by the Circleville resin manufacturing plant and other PPG-owned coatings and resins operations. The hazardous wastes generated by Respondent include spent solvents, waste paints, waste resins and hazardous waste trash. Hazardous wastes are also generated by the ERU in the waste analysis and thermal treatment processes.
4. Respondent notified Ohio EPA of its hazardous waste activity and was issued generator identification number OHD004304689 and hazardous waste treatment and storage permit number 01-65-0641.
5. On May 7, 2007, there was an unscheduled emergency shutdown of the ERU at the Facility. Respondent did not use the ERU to burn waste again until June 17, 2007.
6. On June 18 and 19, 2007, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Unlawfully stored hazardous waste at the Facility in eight tanker trucks and two box trucks in an area not permitted for storage of hazardous waste, in violation of Permit Condition A.1 and ORC § 3734.02(E) and (F);
 - b. Failed to report to the director all instances of noncompliance not provided for in Permit Conditions A.19 and A.20, in violation of Permit Condition A.22 and OAC rule 3745-50-58(L)(10);
 - c. Failed to label with the words "hazardous waste" and mark with an accumulation start date hazardous waste containers, in violation of OAC rule 3745-52-34(A)(2) and (3);

- d. Failed to mark a drum in a satellite accumulation area on the mezzanine level with the words "hazardous waste" or with other words that identify the contents of the container, in violation of OAC rule 3745-52-34(C)(1);
 - e. Accumulated fluorescent light bulbs, that were to be crushed on site, in a drum in the maintenance building that was not closed and not marked with the words "hazardous waste" or with other words that identify the contents of the container, in violation of OAC rules 3745-52-34(C)(1) and 3745-66-73(A);
 - f. Failed to inspect three drums of defective resin marked "hazardous waste" stored in a non-designated less than 90 day storage area, at least weekly, in violation of OAC rules 3745-52-34(A)(1)(a) and 3745-66-74; and
 - g. Failed to inspect spill cart No. 5 weekly (July 6, 2006-July 19, 2006), in violation of Permit Condition F.2 and OAC rule 3745-50-58(A) and ORC § 3734.11(B).
7. By letter dated June 26, 2007, Ohio EPA notified Respondent of the violations referenced in Finding No. 6 of these Orders. In this letter, Respondent was also informed that the violations referenced in Findings Nos. 6.c, 6.d, and 6.f were abated at the time of the inspection.
8. During a site visit on July 17, 2007, Ohio EPA observed that the eight tanker trucks and two box trucks noted in Finding No. 6.a. had been removed. However, Respondent continued to unlawfully store hazardous waste at the Facility in five box trucks in an area not permitted for storage of hazardous waste, in violation of Permit Condition A.1 and ORC § 3734.02(E) and (F).
9. In an e-mail dated August 7, 2007, Respondent notified Ohio EPA that Respondent had ceased the storage of hazardous waste at the Facility described in Findings Nos. 6 and 8 above as of August 2, 2007.
10. During a site visit on August 14, 2007, Ohio EPA confirmed that Respondent was no longer unlawfully storing hazardous waste at the Facility.
11. On August 24, 2007, Ohio EPA met with Respondent. During that meeting, Respondent provided Ohio EPA with information regarding the circumstances associated with the hazardous waste storage described in Findings Nos. 6. and 8.
12. By letter dated August 30, 2007, Ohio EPA notified Respondent that, based on documentation received during the August 24, 2007 meeting, the violations referenced in Findings Nos. 6.e. and 6.g. were abated.

13. By letter dated May 5, 2009, the Director acknowledged numerous mitigating factors that compelled the Director to conclude that the unpermitted storage of hazardous waste was not a significant violation of law.
14. Because Ohio EPA did not observe any release of hazardous waste at the time of the inspections referenced in Findings Nos. 6. and 8. of these Orders and because the trucks storing the hazardous waste were parked in an area of the Facility with secondary containment and were being inspected daily for releases, the director has determined that closure of and/or corrective action at the unpermitted storage area is not required at this time. Therefore, no further action is required at this time to abate the ORC § 3734.02(E) and (F) violation referenced in Finding No. 6.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. Respondent shall pay Ohio EPA the amount of \$12,000.00 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. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$12,000.00. 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 Respondent. 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 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
Central District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
50 West Town Street, Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center

50 West Town Street, Suite 700
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
50 West Town Street, Suite 700
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 units, as well as corrective action at the Facility, 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 any final action of the director regarding 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure of the hazardous waste unit and corrective action at the Facility by Respondent, which rights 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

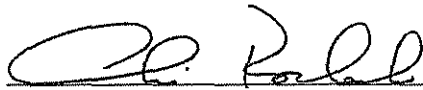
The effective date of these Orders is the date these Orders are entered into the Ohio EPA director's journal.

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



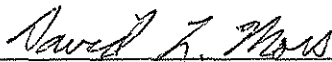
Chris Korleski
Director

October 15, 2009

Date

IT IS SO AGREED:

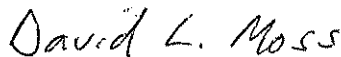
PPG Industries Ohio, Inc.



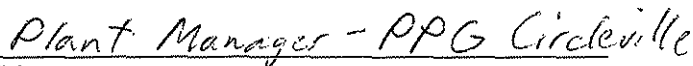
Signature

9/17/09

Date



Printed or Typed Name



Title