

OHIO E.P.A.

JUN 15 2011

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Vexor Technology, Inc.
955 West Smith Road
Medina, OH 44256

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 Vexor Technology, 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, 3734.02(G), 3745.01 and 6111.

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 the Respondent or of the Facility owned by the Respondent 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 6111. and the rules promulgated thereunder.

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: Donna Lassiter Date: 6-15-11

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC § 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondents of any matter of law or fact. The Director of Ohio EPA had determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director, may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.
2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
3. Respondent owns and operates a waste transporter/transfer facility, used oil processor/transporter and industrial waste treatment facility at 955 West Smith Road, Medina, OH 44256 (Facility).
4. Respondent notified Ohio EPA of its hazardous waste, universal waste, and used oil activities and was issued generator identification number OHD077772895.
5. On July 18, 2005, Ohio EPA issued a Permit to Install (PTI), Application No. 02-20895, for a solidification pit at the Facility. The PTI only permits the placement of non-hazardous wastes and materials into the solidification pit.
6. On October 23, 2006, the Director of Ohio EPA issued Final Findings and Orders (2006 Orders) to Respondent. All findings made in the October 23, 2006 Director's Final Findings and Orders are hereby incorporated by reference. The 2006 Orders included an Order to implement an Ohio EPA approved Waste Analysis Plan (WAP) and Facility Compliance Plan (FCP). The purpose of the WAP and FCP is to eliminate, or at least minimize, the receipt of hazardous waste at the Facility. Additionally, the WAP and FCP detail how the Respondent will profile and manage incoming wastes, including hazardous waste, at the Facility. Specifically, the FCP details how hazardous waste must be managed at the Facility while being stored prior to shipment off-site for proper management.

7. On December 9, 2009, Respondent received and stored from off-site at the Facility a fifty-five (55) gallon container of ignitable hazardous waste, hazardous waste code D001 as described in OAC rule 3745-51-21. Respondent transported the container off-site on December 28, 2009.
8. On March 31, 2010, Respondent received and stored from off-site a ten (10) gallon container of ignitable hazardous waste, hazardous waste code D001 as described in OAC rule 3745-51-21. On April 7, 2010, Respondent placed the hazardous waste into a solidification pit and treated the hazardous waste with other wastes and water. Respondent's actions caused a chemical reaction and fire to occur in the solidification pit. Respondent subsequently treated the remaining hazardous waste in the solidification pit by treatment with water and then solidified non-hazardous treatment residue. The non-hazardous treatment residue was transported to a solid waste disposal facility.
9. On April 7, 2010, the Medina Emergency Management Agency contacted Ohio EPA regarding the incident described in Finding No. 8.
10. On April 15, 2010, Ohio EPA conducted a follow up investigation at the Facility.
11. On April 19, 2010, Ohio EPA sent an electronic mail to Respondent requesting information regarding the incident described in Finding No. 8.
12. In correspondence dated April 26, 2010, Ohio EPA received from Respondent the requested information described in Finding No. 11.
13. Due to the events described in Findings Nos. 7. and 8., Ohio EPA determined Respondent, *inter alia*:
 - a. Established and operated a hazardous waste storage and treatment facility without a hazardous waste installation and operation permit, in violation of ORC §§ 3734.02(E) and (F) and 3734.13(D); and
 - b. Failed to comply with the terms of Permit to Install Number 02-20895, in violation of ORC § 6111.07(A).
14. Respondent was notified of the violations referenced in Finding No. 13. by letter dated May 6, 2010.

15. In correspondence dated June 2, 2010, Ohio EPA received from Respondent a response to Ohio EPA's correspondence referenced in Finding No. 14.
16. On May 13, 2011, Respondent submitted to Ohio EPA a revised draft FCP and WAP, including a closure plan. The closure plan complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100.
17. The 2006 Orders, are hereby terminated.
18. Due to Respondent's establishment and operation of a hazardous waste storage and treatment facility as described in Finding No. 13. of these Orders, Respondent is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.
19. The submittal of a WAP and FCP in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. The FCP shall include, but not be limited to, a closure plan which complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).
20. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with these Orders and to evidence relating to conditions calculated to result from compliance with these Orders, and its relation to the benefits to the people of the State to be derived from such compliance in accomplishing the purposes of ORC Chapter 6111.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734 of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. The Respondent is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility.
2. The FCP and WAP, including the closure plan, referenced in Finding No. 16. of these Orders is hereby approved. Respondent shall implement the FCP and WAP, including the closure plan, in the manner and pursuant to the timeframes set forth in the FCP and WAP, including the closure plan.
3. Within 60 days after the effective date of the these Orders, Respondent shall establish financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47, and provide a copy of such documentation to Ohio EPA in accordance with Section X. of these Orders.
4. Respondent shall pay Ohio EPA the amount of \$19,000 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$15,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 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 \$15,000.00. 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.
 - b. In lieu of paying the remaining \$4,000.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$4,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$4,000.00. The official check shall be submitted to Brenda Case, or her successor, 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, and an additional copy of this check shall be sent to Thomas Kalman, Manager, Compliance and Enforcement Section, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

- c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 5.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 5.b., the amount of \$4,000.00 in accordance with the procedures in Order No. 5.a.
5. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$5,000.00 in settlement of Ohio EPA's claim for civil penalties, which may be assessed pursuant to ORC Chapter 6111. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A photocopy of the check shall be sent to Ohio EPA at the address listed below:

Ohio Environmental Protection Agency
Northeast District Office
Division of Surface Water
2110 E. Aurora Rd.
Twinsburg, Ohio 44087
Attn: DSW Enforcement Supervisor
6. Notwithstanding Section VI. of these Orders:
 - a. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason, including but not limited to, a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment, and/or activities are not being conducted in accordance with these Orders and/or the FCP and/or WAP. Upon termination of these Orders or revocation of the exemption, Respondent shall implement the approved closure plan referenced in Finding No. 16. and Order No. 2. of these Orders.
 - b. During the effective term, the FCP and WAP may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered into the journal of the Director of Ohio EPA.

VI. TERMINATION

Respondent may request termination of these Orders 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 required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency
Northeast District Office
Division of Materials and Waste Management
2110 E. Aurora Rd.
Twinsburg, Ohio 44087
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street, Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right to require 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

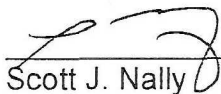
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Scott J. Nally
Director

June 15, 2011

Date

IT IS SO AGREED:

Vexor Technology, Inc.



Signature

5-31-11

Date

F. Phillip Stapf

Printed or Typed Name

V.P.

Title