

BEFORE THE OHIO
ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

OCT 13 2010

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Eaton Aeroquip, Inc.
1225 West Main St.
Van Wert, Ohio 45891

Director's Final Findings
and Orders

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PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Eaton Aeroquip, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.01 and 3753.08.

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 identified below 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 3753 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a company that produces couplings, fittings, adapters and hose assemblies for trucking companies, industrial equipment and agricultural industries. This facility is located at 1225 West Main St. in Van Wert, Ohio. Respondent had more than a threshold quantity of a Risk Management Plan ("RMP") "regulated substance," namely anhydrous ammonia,

as defined in Ohio Administrative Code ("OAC") Rule 3745-104-01. The RMP threshold amount for anhydrous ammonia is 10,000 pounds. Until November 2009, Respondent stored 34,000 pounds of anhydrous ammonia in two above-ground storage tanks. The process for which this regulated substance was employed was a "covered process" within the meaning of OAC Rule 3745-104-01(B)(11). The "covered process" at Respondent's facility was subject to Program 3 because the chemical, ammonia, is subject to OSHA Process Safety Management; and the worst-case scenario has population within the distance to the endpoint.

2. Pursuant to OAC Rule 3745-104-02, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, shall comply with the requirements of this Rule by submitting a RMP no later than June 21, 1999. Respondent submitted a RMP in June 1999, 2004, and 2009, as required.
3. On April 22, 2004, Ohio EPA, Division of Air Pollution Control ("DAPC") inspectors conducted an inspection at Respondent's facility and discovered nine rule violations. No penalty was assessed, but the Respondent was required to correct the violations and remain in compliance. All of the violations were corrected and the facility was in compliance at that time.
4. On July 21, 2009, the Ohio EPA conducted a second five-year inspection at Respondent's facility and discovered seven violations of the rules, which included four violations that were cited from the first inspection. The violations were as follows:
 - (a) Respondent failed to structure the PHA appropriately to the complexity of the process, in violation of OAC Rule 3745-104-25(A), (C)(5) and (C)(6). This is a repeat violation.
 - (b) Respondent failed to create and implement a mechanical integrity program according to the rule, in violation of OAC Rule 3745-104-28.
 - (c) Respondent failed to create a management of change according to the rule for the addition of new safety valves, in violation of OAC Rule 3745-104-29. This is a repeat violation.
 - (d) Respondent failed to create a pre-startup review for the addition of the new safety valves, in violation of OAC Rule 3745-104-30. This is a repeat violation.
 - (e) Respondent failed to conduct compliance audits in 2004 and 2007,

in violation of OAC Rule 3745-104-31. This is a repeat violation.

- (f) Respondent failed to create and implement a contractor program according to the rule, in violation of OAC Rule 3745-104-35.
 - (g) Respondent failed to report the December 7, 2007 accident within six months of occurrence, in violation of OAC rule 3745-104-49(D).
5. A letter dated August 10, 2009 was sent to Respondent requiring the deficiencies to be corrected within thirty days of receipt of the letter.
 6. On September 10, 2009, Respondent called the Ohio EPA and requested an extension until October 18, 2009, for correcting all of the deficiencies except for the PHA, which would be submitted by November 15, 2009. Ohio EPA agreed to the extension request per the letter dated September 16, 2009
 7. On September 21, 2009, Respondent sent documentation to remedy Findings 4(c), (d), (e), and (g). Findings 4(a), (b), and (f) were not resolved.
 8. On October 27, 2009, the Ohio EPA sent Respondent a warning letter requesting additional documentation.
 9. On November 5, 2009, Respondent submitted the follow-up documentation that resolved Finding 4(a) and (f), but which only partially resolved Finding 4(b) and notified the Ohio EPA that the anhydrous ammonia would be permanently removed from the site.
 10. On November 30, 2009, Respondent sent the U.S. EPA and the Ohio EPA a letter de-registering the facility from the RMP regulations by removing the ammonia from the site.
 11. ORC § 3753.06 prohibits violations of provisions of ORC Chapter 3753 or any rule adopted or issued under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 4(a),(c),(d),(e), and (g) from July 21, 2009 (the date of the inspection) to September 21, 2009. Respondent also violated Finding 4 (f) from December 12, 2007 to November 5, 2009.
 12. The Director has given consideration to, and based on his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and benefits to the people of the State to be derived from such compliance

ORDERS

The Director hereby issues the following Orders:

1. Before Respondent stores anhydrous ammonia or any other RMP chemical on site at the facility above the threshold amount, Respondent shall register and submit a RMP to the U.S. EPA and the Ohio EPA. Respondent must also comply with, and implement all applicable laws and regulations regarding the RMP Program. This also includes a complete mechanical integrity program (Finding 4(b)).
2. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of twenty-five thousand nine hundred dollars (\$25,900) 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 thousand seven hundred twenty dollars (\$20,720) in settlement of Ohio EPA's claims for civil penalties, which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$20,720. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Brenda Case, 50 West Town Street, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.
3. In lieu of paying the remaining five thousand one hundred eighty dollars (\$5,180) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$5,180 to the Ohio EPA's fund for the Clean Diesel School Bus Program (Fund 5CD0). Respondent shall make payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$5,180. The official check shall be submitted to Brenda Case, together with a letter identifying the Respondent, the facility, and Fund 5CD0, to the above-stated address.
4. A copy of each of the above checks shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town St., Suite 700
P. O. Box 1049
Columbus, Ohio 43216

5. Should Respondent fail to fund the SEP within the required time frame set forth in Order 3, Respondent shall immediately pay to Ohio EPA five thousand one hundred eighty dollars (\$5,180) of the civil penalty.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks, as 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 the 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:

Kimberly Joseph
Ohio Environmental Protection Agency
Division of Air Pollution Control
50 West Town St., Suite 700
P.O. Box 1049
Columbus, Ohio 43216-1049

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all 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. 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

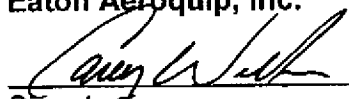


Chris Korleski
Director

10/6/10
Date

IT IS SO AGREED:

Eaton Aeroquip, Inc.



Signature

9.24.2010
Date

CAREY WELKER

Printed or Typed Name

PLANT MANAGER

Title