

OHIO E.P.A.

AUG 19 2014

OHIO ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE OHIO

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ENTERED DIRECTOR'S JOURNAL ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

J. H. Routh Packing Company	:	<u>Director's Final Findings</u>
4413 West Bogart Road	:	<u>and Orders</u>
Sandusky, Ohio 44870	:	

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to J. H. Routh Packing Company ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 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 the Respondent or of the facility (as hereinafter defined) 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 the Ohio EPA makes the following findings:

1. Respondent is an animal slaughtering and processing facility that houses an ammonia refrigeration process to store the carcasses and finished product. Respondent has more than the threshold quantity of a "regulated substance," namely anhydrous ammonia, as defined in Ohio Administrative Code ("OAC") Rule 3745-104-01. The Risk Management Plan ("RMP") threshold amount for anhydrous ammonia is 10,000 pounds.
2. Anhydrous ammonia is a regulated substance listed in OAC Rule 3745-104-04. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as determined by OAC Rule

3745-104-02, shall comply with the requirements of OAC Rules 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing an accidental release prevention program no later than June 21, 1999 or no later than when the threshold limit is exceeded in a process. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA. Respondent submitted the initial RMP in June 1999 and has resubmitted every five years thereafter.

3. Anhydrous ammonia has a threshold of 10,000 pounds. Respondent stores 20,290 pounds of anhydrous ammonia.
4. An initial RMP audit was conducted by Ohio EPA on May 10, 2005. The following eight violations were discovered during the audit:
 - (a) Respondent failed to maintain on site supporting documentation for the hazard assessment, in violation of OAC Rule 3745-104-15.
 - (b) Respondent failed to compile complete process safety information for the subject process, in violation of OAC Rule 3745-104-24.
 - (c) Respondent failed to establish a system to address findings and recommendations from the process hazard analysis, in violation of OAC Rule 3745-104-25.
 - (d) Respondent failed to annually certify that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26.
 - (e) Respondent failed to train each employee involved in operating the process at least every three years, in violation of OAC Rule 3745-104-27.
 - (f) Respondent failed to establish and implement written procedures to maintain the on-going integrity of critical equipment for the process, in violation of OAC Rule 3745-104-28.
 - (g) Respondent failed to conduct an RMP compliance audit, in violation of OAC Rule 3745-104-31.
 - (h) Respondent failed to obtain and evaluate information regarding a contractor's safety performance and programs when selecting a contractor, in violation of OAC Rule 3745-104-35.
5. Respondent submitted documentation in order to resolve the deficiencies after Ohio EPA DAPC issued two warning letters on May 16, 2005 and August 8, 2005. Due to the amount of documentation that was unavailable and required to be submitted to Ohio EPA, a follow-up inspection was conducted on May 9, 2006. At that time, the documentation was available and a completion letter was issued to Respondent on June 16, 2006, requiring them to maintain compliance with the RMP program.
6. On March 14, 2012, Ohio EPA conducted the second five-year RMP audit at Respondent's facility and discovered eight violations of the rules. The violations were as follows:

- (a) Respondent failed to maintain documentation for the worst case and alternative release scenarios, in violation of OAC Rule 3745-104-15. This is a repeat violation.
 - (b) Respondent failed to include in the process safety information the following documentation: block flow diagram, maximum intended inventory calculations, safe upper and lower limits of process equipment and an evaluation of consequences of deviations from these limits, relief system design and design basis, ventilation system design, and safety systems, in violation of OAC Rule 3745-104-24. This is a repeat violation.
 - (c) Respondent failed to compile complete process safety information, in violation of OAC Rule 3745-104-24(A) and to address the hazards of the process and identify incidents that had a likely potential for catastrophic consequences, in violation of OAC Rule 3745-104-25.
 - (d) Respondent failed to develop complete operating procedures and annually certify procedures were reviewed and accurate, in violation of OAC Rule 3745-104-26. This is a repeat violation.
 - (e) Respondent failed to provide every three-year refresher training on operating procedures that meet the requirements of OAC Rule 3745-104-26(A), in violation of OAC Rule 3745-104-27. This is a repeat violation.
 - (f) Respondent failed to follow recognized and generally acceptable good engineering practices for inspection and testing procedures and to correct deficiencies discovered in equipment from inspections and tests, in violation of OAC Rule 3745-104-28. This is a repeat violation.
 - (g) Respondent failed to implement a written employee participation plan for RMP elements, in violation of OAC Rule 3745-104-33.
 - (h) Respondent failed to, prior to selecting a contractor, obtain and evaluate information regarding the contractor's safety performance and programs, in violation of OAC Rule 3745-104-35. This is a repeat violation.
7. An e-mail to the facility and the facility's consultant requesting the missing documentation was sent on March 20, 2012, and no reply was received.
 8. A deficiency letter outlining the eight violations and guidance was mailed to Respondent on March 27, 2012.
 9. Respondent submitted documentation to correct the violations in Findings 6(a) through 6(h) by June 2014.
 10. ORC § 3753.06 prohibits violations of the provisions of ORC Chapter 3753 or any rule adopted under it. Respondent violated rules adopted under ORC Chapter 3753, specifically, the rules cited in Finding 6, in violation of ORC § 3753.06.
 11. The Director has given consideration to, and based his determination on, evidence related 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.

V. ORDERS

The Director hereby issues the following Orders:

1. Respondent shall continue to maintain a compliant RMP program.
2. Pursuant to ORC § 3753.09, Respondent shall pay the amount of twenty-five thousand dollars (\$25,000) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for twenty-five thousand dollars (\$25,000) of the total amount, which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Division of Air Pollution Control
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215

3. A copy of the above check shall be sent to Bruce Weinberg, Manager, Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
Lazarus Government Center
50 West Town Street, Suite 700
Columbus, Ohio 43215

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 Air Pollution Control 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 "facility official" 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
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049
Attention: Sherri Swihart

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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency



Craig Butler
Director

8/14/14

Date

AGREED:

J. H. Routh Packing Company

Thomas M. Routh
Signature

7-11-2014
Date

THOMAS M. ROUTH
Printed or Typed Name

PRESIDENT / CEO
Title