

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Chemtron Corporation
35850 Schneider Court
Avon, Ohio 44011

**Director's Final
Findings and Orders**

Respondent

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Chemtron Corporation (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 heirs 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. Respondent does not admit to any of Ohio EPA's factual or legal findings and nothing in these Orders shall be considered as an admission by Respondent of any matter of fact or law.

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(P).
2. Respondent owns and operates a hazardous waste storage and treatment facility located at 35850 Schneider Court, Avon, Ohio (Facility), which receives hazardous

waste from off-site. On January 14, 2015, Respondent was issued a hazardous waste facility installation and operation renewal permit (Permit) for storage and treatment of hazardous waste at the Facility. Respondent is permitted to store and treat hazardous waste (specified amounts) in areas designated as Area 1, Area 2, Area 3, Area 4, Area 5, and Area 6 at the Facility. The Facility has been assigned U.S. EPA identification number OHD066060609.

3. On April 4, 2023, Ohio EPA issued Director's Final Findings and Orders to Respondent for, *inter alia*, establishing an unlawful storage facility by storing hazardous waste at the Facility in areas not permitted to store hazardous waste without first obtaining a hazardous waste facility installation and operation permit in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A) and Permit Condition A.1.(b).
4. On January 29, 2024, Ohio EPA received a complaint that Respondent was mismanaging hazardous waste and had not properly characterized concrete debris generated from the demolition of a portion of the Transportation Yard at the Facility.
5. On January 30, 2024, Ohio EPA conducted a focused compliance inspection in response to the complaint received as described in Finding No. 4. of these Orders. Based upon this inspection, Ohio EPA determined Respondent, *inter alia*:
 - a. Established an unlawful storage facility by storing hazardous waste at the Facility in an area that is not permitted to store hazardous waste without first obtaining a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A) and Permit Condition A.1.(b). Specifically, Ohio EPA observed approximately 800 containers of hazardous waste in the Transportation Yard, which is not permitted to store hazardous waste.
 - b. Established an unlawful storage facility by storing hazardous waste at the Facility in excess of the permitted storage capacities in Area 3 and Area 5 without first obtaining a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(E) and (F) and OAC rules 3745-50-41(A) and 3745-50-45(A) and Permit Condition C.1. Respondent exceeded the storage capacity in Area 3 and Area 5 by approximately 1,438 gallons and 21,371 gallons respectively on January 30, 2024.
 - c. Failed to evaluate hazardous waste and obtain a detailed chemical and physical analysis of a representative sample of the waste, in violation of OAC rules 3745-52-11 and 3745-54-13(A)(1) and Permit Condition B.3.

Specifically, Respondent removed concrete from the hazardous waste tanker staging area of the Transportation Yard and was storing it in piles without properly characterizing it.

- d. Failed to report noncompliance with the applicable Permit Conditions to Ohio EPA, in violation of OAC rule 3745-50-58(L)(10) and Permit Condition A.22.
6. By letter dated February 22, 2024, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.
7. On February 22, 2024, Ohio EPA was notified that Respondent had transported a tanker truck of corrosive hazardous waste (D002, as described in OAC rule 3745-51-22) without a hazardous waste manifest, in violation of OAC rules 3745-54-71(C) and 3745-52-20 through 3745-52-27. Additionally, Ohio EPA determined Respondent did not ensure proper movement of hazardous waste in violation of OAC rule 3745-54-13. Ohio EPA was informed that the tanker truck was properly sampled and characterized, however, Respondent failed to obtain results prior to causing the hazardous waste to be transported off-site.
8. On February 26, 2024, Respondent submitted a response letter to Ohio EPA which included but was not limited to documentation of employee training conducted on February 12, 2024 to demonstrate employees were re-trained on the 24-hour staging policy; photos demonstrating hazardous waste had been removed from the Transportation Yard; and photos documenting the concrete waste referenced in Finding No. 5.c. of these Orders was contained in roll-off boxes and ultimately transported off-site to an authorized facility.
9. On February 29, 2024, Respondent submitted additional response letters to Ohio EPA. The submitted documentation included but was not limited to hazardous waste storage inventory calculations demonstrating Respondent is in compliance with Permit storage capacity limits; a noncompliance report; and copies of hazardous waste manifests demonstrating the concrete waste referenced in Finding No. 5.c. of these Orders was transported to authorized facilities.
10. By letter dated March 4, 2024, Ohio EPA notified Respondent of the violations described in Finding No. 7. of these Orders.
11. On March 6, 2024, Respondent provided a response to the notice of violation referenced in Finding No. 10. of these Orders. This response included information regarding how Respondent intends to prevent recurrence of the violations described in Finding 7. of these Orders.

12. Based upon the information referenced in Findings Nos. 8. and 9. and 11. of these Orders, the Director has determined that the violations referenced in Findings Nos. 5.c. 5.d. and 7. of these Orders have been resolved.
13. Because there was no evidence of releases of hazardous waste observed at the Facility where the hazardous wastes were unlawfully stored and the areas are subject to corrective action pursuant to Respondent's Permit, closure of these areas is not required of Respondent at this time and no further action is required of Respondent to resolve the violations described in Findings 5.a and 5.b. 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 forty five (45) days of the effective date of these Orders, Respondent shall provide a plan which documents actions/schedules to be taken by Respondent to prevent non-compliance from occurring at the Facility. This plan shall consider, as appropriate, the following actions:
 - a. Contract with third party auditor to temporarily monitor compliance of the Facility;
 - b. Implement a systematic rapid change/audit/process review program;
 - c. Modifying permitted container storage areas to improve capacity;
 - d. Off-site load outs built inside building permitted storage areas;
 - e. Capacity compliance assurance;
 - f. Improve hazardous waste tracking system for alerts (analysis pending, capacity alerts, time allowance);
 - g. Increase in personnel training frequencies;
 - h. General site inspections by environmental compliance manager and report;
and
 - i. Continuous improvement training for all Respondent employees.

This plan may be modified by the parties without the need to modify the Orders.

2. Respondent shall pay Ohio EPA the total amount of \$190,000.00 (in two separate payments) 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 environmental protection remediation fund established pursuant to ORC § 3734.281. Within thirty (30) days after the effective date of these Orders, Respondent shall make the first payment of \$95,000. Within one hundred twenty

(120) days after the effective date of these Orders, Respondent shall make the second payment of \$95,000. The official payment shall be submitted to Ohio EPA according to the instructions on the invoice. Notification of penalty payment shall be sent to the Hazardous Waste Program Compliance Assurance Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049 or via electronic mail at Mitchell.mathews@epa.ohio.gov.

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 Environmental Response and Revitalization 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 [e.g., 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 (except penalty payment checks) 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.

For electronic mail delivery, submit documents to the following email addresses:

Mitchell.Mathews@epa.ohio.gov
Natalie.Oryshkewych@epa.ohio.gov

XI. RESERVATION OF RIGHTS

Ohio EPA reserves its rights to exercise its lawful authority to require Respondent to perform closure 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 any final action of the Director regarding closure. 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. Except for the right to seek closure at the Facility, 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



E-SIGNED by Anne Vogel
on 2024-03-28 07:49:47 EST

2024-03-28 07:49:47 UTC

Anne M. Vogel
Director

IT IS SO AGREED:

Chemtron Corporation

Chetan Chauhan
Signature

03/20/2024
Date

CHETAN CHAUHAN
Printed or Typed Name

Regional COO
Title