

OHIO E.P.A.

APR 16 2015

Environmental Protection Agency

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Dover Chemical Corporation
3676 Davis Road NW
Dover, Ohio 44622

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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 the Dover Chemical Corporation (Respondent), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 6111.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in 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 6111., and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates a chemical manufacturing facility that produces alkylphenols, chlorinated paraffin, polymer additives, liquid and solid antioxidants, flame retardants, and additives for water-based and oil-based metalworking fluids.

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: Joy Lassiter Date: 4-16-15

2. Respondent holds a National Pollution Discharge Elimination System (NPDES) permit No. 01F00040*ND for the discharge of treated non-contact cooling water through outfall 002 to Sugar Creek.
3. Respondent's source of the cooling water is a local groundwater supply which contains chlorinated organic compounds from past disposal/treatment practices at the site.
4. Respondent has contained the contaminated groundwater on site since the mid 1980's by pumping of on-site production wells and treats the contaminated groundwater after being used for cooling by sedimentation, oil and grease separation and air stripping.
5. Ohio EPA issued NPDES permit No. 01F00040*LD to Respondent on June 29, 2007, which became effective on August 1, 2007. The NPDES permit contained new water quality based effluent limits for carcinogen additivity factor and toxicity equivalents. The permit also contained a compliance schedule to meet final water quality based effluent limits for carcinogen additivity factor and toxicity equivalents as soon as possible but not later than the dates developed in accordance with the following schedule:
 - a. Submit a status report on submitting a complete and approvable Permit to Install (PTI) application and detailed plans as soon as possible, but not later than 6 months from the effective date of the permit (February 1, 2008).
 - b. Submit a complete and approvable PTI application and detail plans as soon as possible, but not later than 18 months from the effective date of the permit (February 1, 2009).
 - c. Initiate construction as soon as possible, but not later than 24 months from the effective date of the permit (August 1, 2009).
 - d. Submit a status report regarding the progress towards achieving the final effluent limitations as soon as possible, but not later than 24 months from the effective date of the permit (August 1, 2009).
 - e. Complete construction as soon as possible, but not later than 33 months from the effective date of the permit (May 1, 2010).
 - f. Attain full compliance with the final effluent limitations as soon as possible, but not later than 36 months from the effective date of the permit (August 1, 2010).
6. Ohio EPA issued NPDES permit modification No. 01F00040*MD to the Respondent on November 7, 2008, which became effective on January 1, 2009. This permit modified the compliance schedule to address Respondent's

overlapping requirements of its NPDES compliance schedule, the October 20, 2000, Administrative Order of Consent (Docket V-W-01-C-619), and the March 14, 2005, Contingency Plan submitted by the Respondent. The revised compliance schedule required Respondent to meet final effluent limits for carcinogen additivity factor and toxicity equivalents as soon as possible but not later than the dates developed in accordance with the following schedule:

- a. Submit a draft design basis document for achieving compliance with final effluent limits as soon as possible, but not later than 1 month from the effective date of the permit (February 1, 2009).
 - b. Submit a complete and approvable PTI application and detail plans as soon as possible, but not later than 5 months from the effective date of the permit (June 1, 2009).
 - c. Initiate construction as soon as possible, but not later than 11 months from the effective date of the permit (December 1, 2009).
 - d. Complete construction as soon as possible, but not later than 16 months from the effective date of the permit (May 1, 2010).
 - e. Attain full compliance with the final effluent limitations as soon as possible but, not later than 19 months from the effective date of the permit (August 1, 2010).
7. Ohio EPA issued NPDES permit modification No. 01F00040*ND to Respondent on December 8, 2010, which became effective on March 1, 2011. This permit modified the compliance schedule to allow Respondent additional time to meet the final effluent limits. The revised compliance schedule required Respondent to meet final effluent limits for carcinogen additivity factor and toxicity equivalents as soon as possible but not later than the dates developed in accordance with the following schedule:
- a. Submit a status report on its actions to achieve compliance with the final effluent limits no later than July 1, 2011.
 - b. Submit a complete and approvable PTI application and detail plans no later than February 1, 2012.
 - c. Initiate construction no later than May 1, 2012.
 - d. Complete construction no later than July 1, 2012.
 - e. Achieve the final maximum allowable carcinogen additivity factor limit of 1.0 Admin Units and the final average toxicity equivalent limit of 0.14 pg/l no later than August 1, 2012.

8. Respondent did not meet any of the milestone dates set forth in Finding 7 in violation of its NPDES permit.
9. Ohio Administrative Code Rule 3745-33-05 (G) allows for an NPDES permit to contain a schedule of compliance of no more than 5 years for most water quality based effluent limits, including carcinogen additivity and toxicity equivalents.
10. On June 24, 2013 Respondent implemented an alternate pumping scenario 2013A to eliminate withdrawal of the groundwater from the heavily contaminated pumping well 5 in order to reduce the discharge of dioxins at Outfall 01F00040002.
11. From July 2013 through December 2013 the Respondent has met the final maximum allowable carcinogen additivity factor limit of 1.0 Admin Units and the final average toxicity equivalent limit of 0.14 pg/l at outfall 01F00040002.
12. On or about April 6, 2014, Respondent suffered a malfunction in the Aeration Tower located at the facility. Although the malfunction did not result in any immediate violations of Respondent's NPDES permit, Respondent notified Ohio EPA of the malfunction and immediately undertook repairs to address the malfunction. The Aeration Tower was repaired and operational by April 15, 2014.
13. As a result of the malfunction of the Aeration Tower, low level dioxin contaminated solids entered and accumulated in the primary and secondary sedimentation basins and the oil and grease separator within the wastewater treatment system. This resulted in an unusually high loading and accumulation of contaminated solids in the Plant Wastewater Basins. The presence of the low level dioxin contaminated solids in the wastewater treatment system was responsible for violations of the final average toxicity equivalent limit of 0.14 pg/l at outfall 01F00040002 in May through December of 2014.
14. Respondent has implemented corrective actions by cleaning out the contaminated solids from the wastewater treatment system. The contaminated solids were removed from the wastewater system by November 15, 2014. Following the completion of the cleaning process, but before the wastewater treatment system had completely settled following cleaning, a violation of the NPDES dioxin limit was observed in a December 2, 2014 sample. A subsequent sample collected on December 22nd 2014 showed compliance with the NPDES permit limit. The cleaning actions are expected to correct the violations by removing the unusual solids loading/accumulation in the basins. No further corrective actions are expected to be necessary. Compliance with the assigned limits will be verified via the monthly sampling of the plant wastewater effluent.
15. Respondent violated the final effluent limits of its NPDES permit, as listed in Attachment I, which is incorporated into these Findings and Orders by reference.

Each violation cited constitutes a separate violation of ORC §§ 6111.04 and 6111.07.

16. On August 13, 2012, Respondent discharged a bleach solution from Outfall 002 that caused a toxic condition in the stream resulting in a fish kill in violation of Part III, Item 2 (D) of its NPDES permit.
17. Respondent failed to collect a monthly sample for toxicity equivalent (dioxin) for November, 2014 in violation of its NPDES permit. OEPA was notified of this missed sample. Respondent collected a sample on December 2, 2014 to replace the missed November 2014 wastewater sample. Respondent also collected the required effluent sample for dioxin analysis on December 22nd. Both samples will be reported in the December 2014 Discharge Monitoring Report.
18. The following Orders do not constitute authorization or approval of the construction of any physical structure or facilities, or the modification of any existing treatment works or sewer system. Any such construction or modification is subject to the PTI requirements of ORC §§ 6111.44 and 6111.45 and OAC Chapter 3745-42.
19. The Director has given consideration the factors set forth in ORC Sections 6111.03 and 6111.60, 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

1. Respondent shall immediately achieve compliance with final maximum allowable carcinogen additivity factor limit of 1.0 Admin Units and the final average toxicity equivalent limit of 0.14 pg/l at outfall 01F00040002.
2. Respondent shall pay fifty four thousand dollars (\$54,000.00) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 6111. 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 forty three thousand, two hundred dollars (\$43,200.00). The official check shall be submitted to Carol Butler, or her successor, together with a letter identifying the Respondent, to:

Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Environmental Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

3. In lieu of paying the remaining ten thousand, eight hundred dollars (\$10,800.00) of the civil penalty, Respondent shall, within thirty (30) days of the effective date of these Orders, fund a supplemental environmental project ("SEP") by making a contribution in the amount of remaining ten thousand, eight hundred dollars (\$10,800.00) to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall tender an official check made payable to "Treasurer, State of Ohio" for said amount. The official check and a cover letter identifying the Respondent shall be submitted to Carol Butler, or her successor at:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of the check shall be sent to Mark Mann, Enforcement Manager, Storm Water and Enforcement Section, or his successor, at the following address:

Ohio EPA
Division of Surface Water
P.O. Box 1049
Columbus, Ohio 43216-1049

4. Should Respondent fail to fund the SEP within the required time frame set forth in Order No. 3, Respondent shall immediately pay to Ohio EPA the remaining ten thousand, eight hundred dollars (\$10,800.00) of the civil penalty in accordance with the procedures in Order No. 2.

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 Chief of Ohio EPA's DSW, 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.

This 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 as defined in OAC Rule 3745-33-03(F).

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 activities occurring at Dover Chemical.

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. 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
Southeast District Office, Division of Surface Water
2195 Front Street
Logan, Ohio 43138
Attn: Enforcement Unit Supervisor

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 seek civil or administrative penalties against Respondent for violations of these Orders. 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, and in lieu of further enforcement action by Ohio EPA for only those 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 civil or administrative penalties against Respondent for violations of these Orders, 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



Craig W. Butler
Director

Date

4-10-15

IT IS SO AGREED:

Dover Chemical Corporation



Signature

DARREN SCHWEDE

Printed Name

CFB

Title

Date

March 10, 2015

Attachment 1

Get New Data

Permit No	Reporting Period	Station	Reporting Code	Parameter	Limit Type	Limit	Reported Value	Violation Date
OIF00040*MD	February 2010	002	61942	pH, Minimum	1D Conc	6.5	6.44	2/8/2010
OIF00040*MD	February 2010	002	61942	pH, Minimum	1D Conc	6.5	6.31	2/15/2010
OIF00040*MD	June 2010	002	32106	Chloroform	1D Conc	67	88.	6/22/2010
OIF00040*MD	June 2010	002	32106	Chloroform	1D Qty	1.14	1.59545	6/22/2010
OIF00040*MD	June 2010	002	32106	Chloroform	1D Conc	67	100.	6/24/2010
OIF00040*MD	June 2010	002	32106	Chloroform	1D Qty	1.14	1.86222	6/24/2010
OIF00040*MD	June 2010	002	50060	Chlorine, Total Residu	1D Conc	0.027	.05	6/15/2010
OIF00040*MD	July 2010	002	50060	Chlorine, Total Residu	1D Conc	0.027	.09	7/6/2010
OIF00040*MD	August 2010	002	50060	Chlorine, Total Residu	1D Conc	0.027	.06	8/18/2010
OIF00040*MD	August 2010	002	76025	Toxicity Equivalent	30D Conc	0.14	14.36	8/1/2010
OIF00040*MD	September 2010	002	32102	Carbon Tetrachloride	1D Conc	44	49.	9/20/2010
OIF00040*MD	September 2010	002	32102	Carbon Tetrachloride	1D Qty	0.76	.91249	9/20/2010
OIF00040*MD	September 2010	002	32102	Carbon Tetrachloride	1D Conc	44	52.	9/22/2010
OIF00040*MD	September 2010	002	32102	Carbon Tetrachloride	1D Qty	0.76	.99	9/22/2010
OIF00040*MD	September 2010	002	32106	Chloroform	1D Conc	67	1100.	9/20/2010
OIF00040*MD	September 2010	002	32106	Chloroform	1D Qty	1.14	20.4844	9/20/2010
OIF00040*MD	September 2010	002	32106	Chloroform	1D Conc	67	710.	9/22/2010
OIF00040*MD	September 2010	002	32106	Chloroform	1D Qty	1.14	13.5173	9/22/2010
OIF00040*MD	September 2010	002	32106	Chloroform	30D Conc	44	204.755	9/1/2010
OIF00040*MD	September 2010	002	32106	Chloroform	30D Qty	0.76	3.84612	9/1/2010
OIF00040*MD	October 2010	002	32102	Carbon Tetrachloride	1D Conc	44	300.	10/4/2010
OIF00040*MD	October 2010	002	32102	Carbon Tetrachloride	1D Qty	0.76	5.72292	10/4/2010
OIF00040*MD	October 2010	002	32106	Chloroform	1D Conc	67	3100.	10/4/2010
OIF00040*MD	October 2010	002	32106	Chloroform	1D Qty	1.14	59.1368	10/4/2010
OIF00040*MD	October 2010	002	32106	Chloroform	1D Conc	67	78.	10/6/2010
OIF00040*MD	October 2010	002	32106	Chloroform	1D Qty	1.14	1.55881	10/6/2010
OIF00040*MD	October 2010	002	32106	Chloroform	30D Conc	44	411.837	10/1/2010
OIF00040*MD	October 2010	002	32106	Chloroform	30D Qty	0.76	7.86769	10/1/2010
OIF00040*MD	December 2010	002	32106	Chloroform	1D Conc	67	1500.	12/8/2010
OIF00040*MD	December 2010	002	32106	Chloroform	1D Qty	1.14	26.9681	12/8/2010
OIF00040*MD	December 2010	002	32106	Chloroform	30D Conc	44	173.677	12/1/2010
OIF00040*MD	December 2010	002	32106	Chloroform	30D Qty	0.76	3.11964	12/1/2010
OIF00040*MD	December 2010	002	76025	Toxicity Equivalent	30D Conc	0.14	.7158	12/1/2010
OIF00040*MD	February 2011	002	61941	pH, Maximum	1D Conc	9.0	10.89	2/3/2011
OIF00040*MD	February 2011	002	76025	Toxicity Equivalent	30D Conc	0.14	.6629	2/1/2011
OIF00040*MD	January 2011	002	76025	Toxicity Equivalent	30D Conc	0.14	1.0793	1/1/2011
OIF00040*ND	November 2011	002	32106	Chloroform	1D Conc	67	87.	11/7/2011
OIF00040*ND	November 2011	002	32106	Chloroform	1D Qty	1.15	1.61025	11/7/2011
OIF00040*ND	March 2011	002	50060	Chlorine, Total Residu	1D Conc	0.027	.05	3/7/2011
OIF00040*ND	March 2011	002	50060	Chlorine, Total Residu	1D Conc	0.027	.05	3/9/2011
OIF00040*ND	April 2011	002	50060	Chlorine, Total Residu	1D Conc	0.027	.05	4/11/2011
OIF00040*ND	April 2011	002	50060	Chlorine, Total Residu	1D Conc	0.027	.05	4/20/2011
OIF00040*ND	October 2012	002	32106	Chloroform	1D Conc	67	69.	10/22/2012
OIF00040*ND	October 2012	002	32106	Chloroform	1D Qty	1.15	1.30844	10/22/2012
OIF00040*ND	October 2012	002	32106	Chloroform	1D Conc	67	92.	10/24/2012
OIF00040*ND	October 2012	002	32106	Chloroform	1D Qty	1.15	1.66449	10/24/2012
OIF00040*ND	November 2012	002	32106	Chloroform	1D Qty	1.15	1.26487	11/12/2012
OIF00040*ND	November 2012	603	00530	Total Suspended Solids	30D Conc	49	77.	11/1/2012
OIF00040*ND	May 2013	002	61942	pH, Minimum	1D Conc	6.5	5.27	5/7/2013
OIF00040*ND	June 2013	002	32102	Carbon Tetrachloride	1D Conc	44	48.	6/24/2013
OIF00040*ND	June 2013	002	32102	Carbon Tetrachloride	1D Qty	0.75	.88478	6/24/2013
OIF00040*ND	June 2013	002	32102	Carbon Tetrachloride	1D Conc	44	59.	6/26/2013
OIF00040*ND	June 2013	002	32102	Carbon Tetrachloride	1D Qty	0.75	1.08754	6/26/2013
OIF00040*ND	July 2013	002	61942	pH, Minimum	1D Conc	6.5	2.27	7/21/2013
OIF00040*ND	July 2013	002	00530	Total Suspended Solids	1D Conc	18	59.	7/1/2013
OIF00040*ND	July 2013	002	00530	Total Suspended Solids	1D Qty	307	1112.10	7/1/2013
OIF00040*ND	July 2013	002	32102	Carbon Tetrachloride	1D Conc	44	56.	7/1/2013
OIF00040*ND	July 2013	002	32102	Carbon Tetrachloride	1D Qty	0.75	1.05556	7/1/2013

01F00040*ND	July 2013	002	32102	Carbon Tetrachloride	1D Conc	44	56.	7/17/2013
01F00040*ND	July 2013	002	32102	Carbon Tetrachloride	1D Qty	0.75	.8648	7/17/2013
01F00040*ND	March 2014	002	32102	Carbon Tetrachloride	1D Qty	0.75	.80091	3/24/2014
01F00040*ND	March 2014	002	32102	Carbon Tetrachloride	1D Qty	0.75	.82982	3/26/2014
01F00040*ND	March 2014	002	50060	Chlorine, Total Residu	1D Conc	0.027	1.	3/31/2014
01F00040*ND	March 2014	002	50060	Chlorine, Total Residu	30D Conc	0.017	.11111	3/1/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Conc	44	76.	4/7/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Qty	0.75	1.42104	4/7/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Conc	44	73.	4/9/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Qty	0.75	1.36495	4/9/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Conc	44	74.	4/14/2014
01F00040*ND	April 2014	002	32102	Carbon Tetrachloride	1D Qty	0.75	1.38364	4/14/2014
01F00040*ND	May 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	4.14	5/5/2014
01F00040*ND	June 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	.8728	6/5/2014
01F00040*ND	July 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	1.5242	7/9/2014
01F00040*ND	August 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	25.936	8/7/2014
01F00040*ND	September 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	.4501	9/3/2014
01F00040*ND	October 2014	002	76025	Toxicity Equivalent	30D Conc	0.14	.8355	10/7/2014

