BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
DEC 11 2007
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Capital Resin Corporation
324 Dering Avenue
Columbus, Ohio 43207

Directors Final Findings and Orders

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: _____ **Date:** 12-11-07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Capital Resin Corporation ("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 chemical facility located at 324 Dering Road in Columbus, Ohio. The facility stores formaldehyde in three storage tanks, a loading rack, a weigh bin, and in the piping, for a total of approximately 1,120,400 pounds. Respondent has more than a threshold quantity of a "regulated substance," namely formaldehyde, as defined in ORC 3745-104-01. The RMP threshold amount of formaldehyde is 15,000 pounds.

2. Pursuant to Ohio Administrative Code ("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, as determined by OAC Chapter 3745-104 shall comply with the requirements of this rule by submitting a Risk Management Plan ("RMP") no later than June 21, 1999. Respondent submitted a Plan in 1999 as required.

3. On August 9, 2001, Ohio EPA, Division of Air Pollution Control ("DAPC") inspectors conducted an audit at Respondent's facility and discovered five deficiencies pertaining to the rules. The deficiencies were as follows:

(a) Respondent failed to develop a management system, in violation of OAC Rule 3745-104-07.

(b) Respondent failed to estimate and provide documentation pertaining to the worst case and alternative release population, in violation of OAC Rule 3745-104-12.

(c) Respondent failed to provide EPA auditors with process safety information, in violation of OAC Rule 3745-104-24.

(d) Respondent failed to perform a process hazard analysis and address the recommendations, in violation of OAC Rule 3745-104-25.

(e) Respondent failed to develop an employee participation plan, in violation of OAC Rule 3745-104-33.

4. On October 5, 2001, the Ohio EPA auditor sent a deficiency letter to the Respondent's facility and required Respondent to correct the deficiencies in (a) through (e) of Finding 3 to be compliance with the RMP Program.

5. Capital Resin submitted their revised RMP in 2004, as required for their five year anniversary date.

6. On September 19, 2006, the Ohio EPA conducted a second audit at Respondent's facility and discovered five deficiencies pertaining to the rules. The deficiencies were as follows:

(a) Respondent failed to provide documentation pertaining to the worst case and alternative population, in violation of OAC Rule 3745-104-15.

(b) Respondent failed to properly document having addressed the recommendations in the 2001 process hazard analysis, in violation of OAC rule 3745-104-25. (This is a repeat violation).

(c) Respondent failed to certify annually that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26.

(d) Respondent failed to develop and implement a mechanical integrity program for the formaldehyde storage vessels, in violation of OAC Rule 3745-104-28.

(e) Respondent failed to conduct compliance audits when required, in violation of OAC Rule 3745-104-32.

7. On October 10, 2006, the Ohio EPA sent Respondent a deficiency letter requiring the deficiencies to be corrected and submitted within thirty days of receipt of the letter.

8. On October 9, 2006, and November 8, 2006, Respondent submitted documentation pertaining to the deficiencies in (a) through (e) of finding 6, stating that Respondent did not agree with all of the deficiencies; however, the documentation Respondent submitted is complete at this time.

9. ORC § 3753.06 prohibits violations of provisions of ORC Chapter 3753 or any rule adopted or issued under it. As of at least October 10, 2006 (the second compliance audit) to November 2006, Respondent violated rules adopted under ORC Chapter 3753, specifically, rules cited in findings 3 and 6.

10. 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.

V. ORDERS

The Director hereby issues the following Orders:

1. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of eight thousand five hundred dollars ($8,500) 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 six thousand eight hundred dollars ($6,800) 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 $6,800. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Brenda Case, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the facility.

2. In lieu of paying the remaining one thousand seven hundred dollars ($1,700) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of $1,700 to the Ohio EPA's fund for the Clean Diesel School Bus Program (Fund 5CD). 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 $1,700. The official check shall be submitted to Brenda Case, together with a letter identifying the Respondent, the facility, and Fund 5CD, to the above-stated address.

3. 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
P. O. Box 1049
Columbus, Ohio 43216

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
DAPC
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 and 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

12-7-07
Date

IT IS SO AGREED:

Capital Resin Corporation

Daniel W. Yinger
Signature

11/16/07
Date

DANIEL YINGER

Printed or Typed Name

PRESIDENT

Title