

**BEFORE THE OHIO  
ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.  
OCT -3 2007

ENTERED DIRECTOR'S JOURNAL

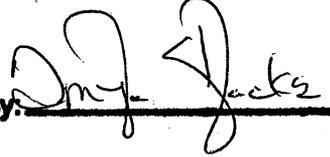
In the Matter of: :  
: :  
Samuel Adams Brewery Company :  
1625 Central Parkway :  
Cincinnati, Ohio 45214 :

Director's 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.**

**PREAMBLE**

It is agreed by the parties hereto as follows:

By:  Date: 10-3-07

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Samuel Adams Brewery Company ("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 brewery located at 1625 Central Avenue Parkway in Cincinnati, Ohio. The facility stores anhydrous ammonia for refrigeration of the beer. The ammonia is contained in pressure vessels and in the piping, for a total of approximately 21,200 pounds. Respondent has more than a 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 of anhydrous ammonia is 10,000 pounds.

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, as determined by OAC Chapter 3745-104, shall comply with the requirements of this rule by submitting a RMP no later than June 21, 1999. Respondent submitted a Plan in 1999 as required.
3. On January 23, 2002, Ohio EPA, Division of Air Pollution Control ("DAPC") inspectors conducted a RMP audit at Respondent's facility and discovered three 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 certify annually that the standard operating procedures are current and accurate, in violation of OAC Rule 3745-104-26.
  - (c) Respondent failed to establish and implement a written mechanical integrity program, in violation of OAC Rule 3745-104-28.
4. On January 31, 2002, the Ohio EPA auditor sent a deficiency letter to the Respondent's facility and required Respondent to correct the deficiencies in (a) through (c) of Finding 3.
5. On February 21, 2002, Respondent submitted the information requested in the deficiency letter.
6. On March 5, 2002, the Ohio EPA sent a letter to Respondent stating that they were in compliance.
7. On March 13, 2007, the Ohio EPA conducted an RMP audit at Respondent's facility and discovered five deficiencies pertaining to the rules. The deficiencies were as follows:
  - (a) Respondent failed to change the emergency contact information within one month of changing the emergency contact, in violation of OAC Rule 3745-104-49 (D)(2).
  - (b) Respondent failed to review and update the offsite consequence analysis after five years, in violation of OAC Rule 3745-104-14.
  - (c) Respondent failed to certify annually that operating procedures are current and accurate, in violation of OAC Rule 3745-104-26. (This is a repeat violation.)
  - (d) Respondent failed to conduct refresher training on the operating procedures, in violation of OAC Rule 3745-104-27.

- (e) Respondent failed to develop and implement a mechanical integrity program, in violation of OAC Rule 3745-104-28. (This is a repeat violation.)
8. On March 26, 2007, the Ohio EPA sent Respondent a deficiency letter requiring the deficiencies to be corrected and documentation to be submitted within thirty days of receipt of the letter.
9. On April 26, 2007, Respondent submitted documentation pertaining to the deficiencies in (a) through (e) of Finding 7. Finding (c) pertains to operating procedures that Respondent failed to review yearly from 2000, to 2003, after they had been cited for the violation during their RMP audit in 2002.
10. 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 7.
11. 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. Respondent shall remain in compliance with the requirements of OAC Chapter 3745-104.
2. Pursuant to ORC § 3753.09, Respondent is assessed a civil penalty in the amount of eighteen thousand three hundred sixty dollars (\$18,360) 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 fourteen thousand six hundred eighty-eight (\$14,688) 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 \$14,688. 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.
3. In lieu of paying the remaining three thousand six hundred seventy-two (\$3,672) of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of \$3,672 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 \$3,672. 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.

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  
P. O. Box 1049  
Columbus, Ohio 43216

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of an acceptable RMP Program and 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 an event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated or modified.

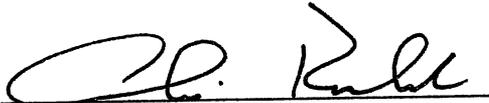
#### **XIII. EFFECTIVE DATE**

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.

**Ohio Environmental Protection Agency**

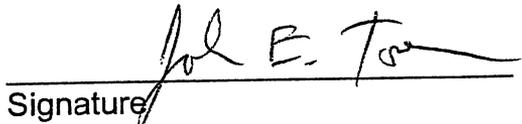


Chris Korleski  
Director

10/2/07  
Date

**IT IS SO AGREED:**

**Samuel Adams Brewery Company**

  
Signature

John E. Toakley  
Printed or Typed Name

Plant Manager  
Title

9-10-07  
Date