Ohio | Environmental Protection Agency
John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

April 16, 2012

CERTIFIED MAIL

Mr. Kevin P. Braig, Esq
Dinsmore & Shohl LLP
1100 Courthouse Plaza, S.W.
10 N. Ludlow Street
Dayton, OH 45402

Re: Final Findings and Orders for: Risk Management Plan rule and law violations at Bonded Chemicals, Inc., 2645 Charter Street, Columbus, Ohio

Dear Mr. Braig:

Transmitted herewith are the Final Findings and Orders ("Orders") of the Director of Ohio EPA concerning the above-referenced matter.

Please note that the effective date of the Orders is the date that the Orders were entered into the Ohio EPA Director's journal, which is the date that is stamped on the first page of the Orders.

Sincerely,

Thomas J. Kalman

Thomas J. Kalman, P.E.
Acting Assistant Chief, SIP Development and Enforcement
Division of Air Pollution Control

TJK/lt

xc: Carol Hester, PIC
Lee Tullis, DAPC
Akia Smith, Fiscal Office (Agency # NA)
Marcus Glasgow, Legal Office
Kim Joseph, DAPC
Paul W. Cochran, Bonded Chemicals, Inc.

50 West Town Street, Suite 700
P.O. Box 1049
Columbus, OH 43216-1049

614 | 644 3020
614 | 644 3184 (fax)
www.epa.ohio.gov

OHIO E.P.A.

APR 16 2012

ENTERED DIRECTOR'S JOURNAL

BEFORE THE OHIO

ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Bonded Chemicals, Inc. :
2645 Charter Street :
Columbus, Ohio 43228 :

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.

By [signature] Date: 4-16-12

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Bonded Chemicals, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") 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 (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 3745 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA makes the following findings:

1. Respondent owns and operates a chemical distribution facility for municipalities, which includes stocking and distribution of a complete line of industrial chemicals. The facility is located at 2645 Charter Street, Columbus, Ohio. Chlorine is delivered in 150 pound cylinders by the supplier and has a total of 22,000 pounds on site. The process for which this regulated substance is employed is a "covered process" within the meaning of Ohio Administrative Code ("OAC") Rule 3745-104-01. The "covered process" at Respondent's facility is subject to Program 2 instead of Program 3 because 99% of the sales are to end users.

2. Pursuant to OAC Rule 3745-104-02, an owner or operator of a stationary source, which has more than a threshold quantity of a regulated substance in a process, shall comply with the requirements of this rule by submitting a Risk Management Plan ("RMP") to Ohio EPA no later than June 21, 1999. Respondent submitted RMPs to Ohio EPA in 1999, 2003, and June 2009. The RMP was required to be resubmitted in August 2008, according to OAC Rule 3745-104-49(B)(1) that requires the RMPs to be updated every five years.

3. On May 8, 2003, an inspector with the Ohio EPA, Division of Air Pollution Control ("DAPC") conducted the initial five-year inspection at Respondent's facility, and discovered five rule violations which resulted in February 17, 2004, Director's Final Findings and Orders. A penalty was assessed for $15,290, the Respondent corrected the violations and brought the facility into compliance.

4. On July 14, 2011, Ohio EPA conducted a second five-year inspection at Respondent's facility and discovered the following five violations of the rules. Three of the violations were the same violations that were included in the 2003 enforcement case.

   (a) Respondent failed to maintain the population data for the hazard assessments, in violation of OAC Rule 3745-104-12.

   (b) Respondent failed to maintain the records for the worst case and alternative scenarios for the worst case and alternative scenarios in violation of OAC Rule 3745-104-15. This is a repeat violation of the 2003 enforcement case.

   (c) Respondent failed to conduct a hazard review every five years, in violation of OAC Rule 3745-104-18. This is a repeat violation from the 2003 enforcement case.

   (d) Respondent failed to create and implement a maintenance program, in violation of OAC Rule 3745-104-21. This is a repeat violation from the 2003 enforcement case.

   (e) Respondent failed to timely revise, update and submit the RMP within five years of its most recent update in August 2008, in violation of OAC Rule 3745-104-49(B)(1).

5. A hazard review was submitted that was dated July 15, 2011, but it had no person(s) responsible for conducting it or a list of attendees.

6. A letter dated August 3, 2011, was sent to Respondent requiring the above deficiencies to be corrected within thirty days of receipt of the letter.

7. On August 31, 2011, Respondent submitted documentation to resolve Findings 4(a) and 4(c), and partially resolve Finding 4(d). Finding 4(e) could not be resolved due to timeliness.

8. On September 9, 2011, Respondent resolved 4(b) and 4(d). All of the violations have been remedied.

9. ORC § 3753.06 prohibits violations of the 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 Findings 4(a), 4(b), 4(c), and 4(d) from May 2004 (the year after the first inspection) to September 9, 2011 (when correct documentation was submitted). Finding 4(e) was violated from August 2008 to June 2009.

10. The Director has given consideration to, and based 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 fifteen thousand eight hundred and thirteen dollars ($15,813) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of twelve thousand six hundred and fifty-one dollars ($12,651) 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 $12,651. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, attention Akia Smith, 50 West Town Street, 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 twenty percent of the civil penalty, Respondent shall fund a Supplemental Environmental Project ("SEP") by making a contribution in the amount of three thousand one hundred and sixty two dollars ($3,162) to the Ohio EPA's Clean Diesel School Bus Program Fund (5CD0). 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 $3,162. The official check shall be submitted to Brenda Case, together with a letter identifying the Respondent, the facility, and Fund 5CD0, to the above-stated address.

3. A copy of each of the above checks shall be sent to Thomas Kalman, Acting Assistant Chief, SIP Development and Enforcement, or his successor at the following address:

Ohio EPA
Division of Air Pollution Control
50 West Town St., Suite 700
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 2, Respondent shall immediately pay to Ohio EPA three thousand one hundred and sixty-two dollars ($3,162) of the civil penalty.

VI. TERMINATION

Respondent's obligations under these orders shall terminate upon Ohio EPA's receipt of the official checks 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 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 statute or regulation 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
Division of Air Pollution Control
50 West Town St., Suite 700
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.

ORDERED AND AGREED:

Ohio Environmental Protection Agency

Scott J. Nally
Director

4/11/12
Date

AGREED:

Bonded Chemicals, Inc.

Signature

3/28/12
Date

Paul W. Cochran
General Manager
Printed or Typed Name

Title