State of Ohio Environmental Protection Agency

STREET ADDRESS:
Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL

July 21, 2008

Re: Director's Final Findings & Orders
Poly-Carb, Inc.
US EPA ID No.: OHD 074 550 096

Mr. Ratanjit S. Sondhe
President
Poly-Carb, Inc.
33095 Bainbridge Road
Solon, Ohio 44139

Dear Mr. Sondhe:

Here are the Director's Final Findings and Orders (Orders) issued to Poly-Carb, Inc. on July 18, 2008. These Orders are effective today.

I have also enclosed invoices for the penalty payments required by Order No. 1.a and 1.b. Please remember that your payments are due no later than August 18, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Natalie Oryshkewych at (330) 963-1267.

Sincerely,

David A. Sholtis
Assistant Chief
Division of Hazardous Waste Management

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Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Todd Anderson, Legal
Heidi Greismer, PIC
Natalie Oryshkewych/Suzanne Prusnek, DHWM, NEDO

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: 7-18-08

OHIO E.P.A.

JUL 18 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:	:	
Poly-Carb, Inc. 33095 Bainbridge Road Solon, Ohio 44139	:	**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 Poly-Carb, Inc. (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 successors in interest liable under Ohio law. No change in ownership of the 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent manufactures epoxy, polyurethane and polyurea technologies at its Facility located at 33095 Bainbridge Road, in Solon, Cuyahoga County (Facility).

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD074550096.

4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a small quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility include corrosive and flammable liquid wastes (D001, D002, D005, D007, D008, D035, D039, F002, F003 and F005).

5. On April 7, 8, 14 and May 16, 2005, Ohio EPA conducted a compliance evaluation inspection at Vexor Technology, Inc. located at 955 West Smith Road, Medina, Ohio (Vexor). As a result of this inspection, Ohio EPA determined that Respondent had, on April 20, April 29, and June 3, 2005, transported or caused to be transported twenty-four containers of hazardous waste to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit. On all three shipments, the containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous waste shipping papers.

6. On July 13 and July 14, 2006, Ohio EPA conducted compliance evaluation inspections at the Facility. As a result of these inspections, Ohio EPA determined that Respondent had, *inter alia*:

   a. On three occasions, April 20, April 29, and June 3, 2005, caused the transportation of hazardous waste to an unpermitted facility, in violation of ORC § 3734.02(F);

   b. Failed to evaluate waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11;

   c. Failed to store hazardous waste in containers that were closed, in violation of OAC rule 3745-66-73;

   d. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;

e. Failed to label and date containers of hazardous waste, in violation of OAC rules 3745-52-34 (A)(2) and (3);

f. Failed to conduct inspections of emergency equipment and weekly inspections of container accumulation areas, in violation of OAC rules 3745-65-33 and 3745-66-74;

g. Failed to list the necessary emergency information by the telephone, in violation of OAC rule 3745-52-34(D)(5)(b);

h. Failed to ensure that employees were thoroughly familiar with proper waste handling and emergency procedures, in violation of OAC rule 3745-52-34(D)(5)(c);

i. Failed to ensure that employees had access to an emergency communication device when handling hazardous waste, in violation of OAC rule 3745-52-34(A);

j. Failed to comply with manifest and land disposal restriction (LDR) requirements, in violation of OAC rules 3745-52-20 through 3745-52-23 and 3745-270-07; and

k. Failed to label containers of used oil, in violation of OAC rule 3745-279-22.

7. By letter dated August 22, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 6. of these Orders. In addition, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 6.c., 6.d., 6.e. and 6.k. had been abated.

8. By letter dated September 21, 2006, Respondent submitted a response to Ohio EPA's August 22, 2006 letter.

9. By letter dated October 26, 2006, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.f. and 6.i. of these Orders.

10. By letter dated November 27, 2006, Respondent submitted a response to Ohio EPA's October 26, 2006 letter.

11. By letter dated January 19, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.a., 6.b. and 6.h. of these Orders. In this same letter, Ohio EPA notified Respondent that based upon Respondent's submittals, it was Ohio EPA's position that Respondent unlawfully stored five containers of hazardous waste on-site for greater than 180 days, in violation of ORC § 3734.02(E) and (F). Also in this letter, Ohio EPA notified Respondent that due to the unlawful storage of hazardous waste, Respondent was subject to all applicable general facility standards found in OAC Chapters 3745-54 and 3745-55.

12. By letter dated February 16, 2007, Respondent submitted a response to Ohio EPA's January 19, 2007 letter.

13. By letter dated March 13, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 6.g. and 6.j. of these Orders.

14. By letter dated November 13, 2007, Respondent, through its legal counsel, responded to Ohio EPA's January 19, 2007 letter and the Director's proposed Orders.

15. Because the area referenced in Findings Nos. 6.b, 6.c. and 11, is a concrete pad, is still in use by the Respondent, and there was no evidence of releases of hazardous waste, the Director has determined that closure of this area is not required at this time.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of $57,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:

    a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $45,600.00 in settlement of Ohio EPA's claims for civil penalties which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for $45,600.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a

letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

b. In lieu of paying the remaining $11,400.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $11,400.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for $11,400.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b. of these Orders, Respondent shall pay to Ohio EPA within 7 days of failing to comply with Order No. 1.b. the amount of $11,400.00 in accordance with the procedures in Order No. 1.a.

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 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:

Ohio Environmental Protection Agency
Northeast District Office
Division of Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management

50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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 exercise its lawful authority to require Respondent to perform closure and corrective action 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 such closure or corrective action. 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, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the rights to seek closure and corrective action 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

Chris Korleski
Director

July 18, 2008
Date

IT IS SO AGREED:

Poly-Carb, Inc.

Signature

7/9/08
Date

Ratanjit S. Sondhe
Printed or Typed Name

President
Title