BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
SEP -2 2009
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

ERICO International Corporation
34600 Solon Road
Solon, Ohio 44139

Director's Final Findings and Orders

Respondent

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: 9-2-09

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to ERICO International Corporation (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 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

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

2. Respondent, Erico International Corporation, operates a precision-engineered specialty metal manufacturing facility, located at 34600 Solon Road (ESN Facility), and a mechanical and electrical fasteners manufacturing facility, located at 31700 Solon Road (ECN Facility) Solon, Cuyahoga County, Ohio 44139.

3. 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. At the ESN Facility, Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD066049172. The hazardous wastes generated by Respondent at the ESN Facility include spent corrosive cleaners (D002), cutting fluids (D008), alkaline washwaters (D008), spent paint related material (D001, D035, F003 and F005) and aluminum baghouse dust (D001). At the ECN Facility, Respondent was operating as a conditionally exempt small quantity generator of hazardous waste at the time of the inspection and had been assigned EPA ID number OHD037288875. The wastes generated by Respondent at the ECN Facility include used oil, spent quench oil, cutting oils and universal waste lamps.

4. 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) and identified Respondent as a generator that shipped hazardous waste to Vexor as non-hazardous. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734.

5. On March 20, 2007, Ohio EPA conducted a compliance evaluation inspection at the ESN Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:

   a. Stored hazardous waste on-site for greater than 90 days without a permit, in violation of ORC § 3734.02 (E) and (F);

   b. Transported, or caused to be transported, hazardous waste to an unpermitted facility, in violation of ORC § 3734.02 (F);

   c. Failed to evaluate wastes generated to determine if they are hazardous, in violation of OAC rule 3745-52-11;

   d. Failed to have the required hazardous waste tank system assessments or other relevant documentation available, in violation of OAC rule 3745-66-91;

e. Failed to meet the tank system requirements for the accumulation of D002 hazardous waste, in violation of OAC rule 3745-66-93;

f. Failed to perform and document daily inspections of the hazardous waste tank system, in violation of OAC rule 3745-66-95;

g. Failed to label containers of hazardous waste with the words "hazardous Waste" in violation of OAC rule 3745-52-34(A)(3);

h. Failed to label containers of hazardous waste with the date they began accumulating, in violation of OAC rule 3745-52-34(A)(2);

i. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of OAC rule 3745-66-73(A);

j. Failed to label satellite accumulation containers with the words "Hazardous Waste" in violation of OAC rule 3745-52-34(C)(1);

k. Failed to conduct weekly inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74;

l. Failed to have spill control equipment available in the hazardous waste accumulation area, in violation of OAC rule 3745-65-32(B);

m. Failed to inspect and document inspections of emergency equipment in the hazardous waste accumulation area, in violation of OAC rule 3745-65-33;

n. Failed to keep containers of universal waste lamps closed, in violation of OAC rule 3745-273-13(D)(1);

o. Failed to label or mark containers of universal waste batteries with the appropriate words, in violation of OAC rule 3745-273-14(A);

p. Failed to label or mark containers of universal waste lamps with the appropriate words, in violation of OAC rule 3745-273-14(E);

q. Failed to demonstrate the length of time universal waste lamps had been accumulating, in violation of OAC rule 3745-273-15(C);

r. Failed to adequately respond to broken universal waste lamps and properly manage them, in violation of OAC rule 3745-273-13(D)(2);

s. Failed to adequately train the persons involved in the management of universal waste, in violation of OAC rule 3745-273-16;

t. Failed to have a contingency plan meeting the requirements of OAC rule 3745-65-52;

u. Failed to distribute copies of the contingency plan, in violation of OAC rule 3745-65-53;

v. Failed to have a personnel training program, in violation of OAC rule 3745-65-16;

w. Failed to label containers of used oil with the words "used oil" in violation of OAC rule 3745-279-22(C)(1);

x. Failed to have LDR forms on-site for each hazardous waste stream sent off-site to a treatment, storage or disposal facility, in violation of OAC rule 3745-270-07;

y. Failed to properly complete the hazardous waste manifest for hazardous wastes shipped off-site, in violation of OAC rule 3745-52-20(A); and

z. Failed to file the hazardous waste annual report for calendar year 2006, in violation of OAC rule 3745-52-41.

6. Respondent was notified of the violations referenced in Finding No. 5 of these Orders by letter dated April 18, 2007, and that violations referenced in Finding Nos. 5.i., 5.j., 5.l., and 5.w. of these Orders, have been abated.

7. Respondent submitted documentation to Ohio EPA on June 4, 2007, demonstrating, that the hazardous waste tank system referenced in Finding No. 5.d. of these Orders has been closed in compliance with generator closure standards.

8. After review of documentation submitted by Respondent, and an additional visit to the ESN Facility on August 8, 2007, Ohio EPA notified Respondent by letter dated September 14, 2007, that Respondent had, at the EIC Facility, *inter alia:*

a. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;

b. Failed to label containers of hazardous waste with the words "hazardous waste" in violation of OAC rule 3745-52-34(A)(3);

c. Failed to mark containers of hazardous waste with the accumulation start date, in violation of OAC rule 3745-52-34(A)(2); and

d. Failed to have adequate aisle space in the hazardous waste accumulation area, in violation of OAC rule 3745-65-35.

This letter also notified Respondent that the violations referenced in Finding Nos. 5.c. through 5.h., 5.k., 5.m. through 5.r., 5.x., 5.y., and Finding Nos. 8.b. and 8.c. of these Orders were abated.

9. Respondent submitted additional documentation by letter dated October 12, 2007.

10. By letter dated March 21, 2008, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.s., 5.t., and 5.z., and 8.d. of these Orders.

11. Respondent submitted additional information by letter dated April 23, 2008.

12. Upon review of the documentation, Ohio EPA notified Respondent by letter dated July 15, 2008, that the violations referenced in Finding Nos. 5.b., 5.u., 5.v., and 8.a. of these Orders were abated.

13. On March 22, 2007 Ohio EPA performed a compliance evaluation inspection at the ECN Facility. As a result of this inspection, Ohio EPA determined that Respondent had, *inter alia*:

a. Transported, or caused to be transported, hazardous waste to an unpermitted facility, in violation of ORC § 3734.02 (F) in 2003 when Respondent notified as a small quantity generator;

b. Failed to evaluate wastes to determine if they are hazardous, in violation of OAC rule 3745-52-11;

c. Failed to keep containers of universal waste lamps closed, in violation of OAC rule 3745-273-13(D)(1);

d. Failed to label containers of universal waste lamps with the appropriate words, in violation of OAC rule 3745-273-14(E);

e. Failed to demonstrate the length of time universal waste lamps had been accumulating on-site, in violation of OAC rule 3745-273-15(A) and (C);

f. Failed to properly train employees in the management of universal waste, in violation of OAC rule 3745-273-16; and

g. Failed to label containers of used oil with the words "used oil" in violation of OAC rule 3745-279-22(C)(1).

14. Ohio EPA notified Respondent of the violations referenced in Finding No. 13. of these Orders by letter dated April 30, 2007.

15. By letter dated June 15, 2007, Respondent submitted documentation in response to the letter referenced in Finding No. 14. of these Orders.

16. Upon review of the information submitted, Ohio EPA notified Respondent by letter dated October 3, 2007, that the violations referenced in Finding Nos. 13.a. through 13.e. and 13.g. of these Orders were abated.

17. Respondent submitted additional documentation by letter dated October 30, 2007.

18. By letter dated April 2, 2008, Ohio EPA notified Respondent that the violation referenced in Finding No. 13.f. of these Orders was abated.

19. On May 7, 2008, Ohio EPA received an unmanifested waste report indicating that Respondent shipped 16 containers of hazardous waste as non-hazardous, in violation of OAC rules 3745-52-11 for failure to evaluate wastes and 3745-52-20(A) for failure to use a hazardous waste manifest to ship the wastes.

20. Respondent was notified of the violations referenced in Finding No. 19. of these Orders by letter dated September 9, 2008.

21. Respondent submitted documentation to Ohio EPA in reference to the violations referenced in Finding No. 19. of these Orders by letters dated October 17, 2008, and November 17, 2008.

22. On August 7, 2008, a fire occurred at the ESN Facility. Ohio EPA contacted Respondent to request information concerning the fire. Respondent provided a response to Ohio EPA in November and December of 2008. Ohio EPA has since determined that Respondent has satisfactorily responded to its requests and no violation of hazardous waste rules and regulations occurred as a result of the August 2008 fire.

23. By letter dated March 9, 2009, Ohio EPA notified Respondent that the violations referenced in Finding No. 19. of these Orders were abated.

24. Because Respondent will continue to use the less than 90-day hazardous waste storage area at the ESN Facility, and because no evidence of releases was observed, the Director has determined that no further action is required of Respondent at this time regarding the ORC § 3734.02 (E) and (F) violation referenced in Finding No. 5.a. of these Orders.

V. ORDERS

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

1. Respondent shall pay Ohio EPA the amount of $31,340.00 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 $25,072.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and 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 $25,072.00. 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 the Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

b. In lieu of paying the remaining $6,268.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $6,268.00 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 $6,268.00. 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., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of $6,268.00 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. Except as set forth in Section XII., 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 E 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
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 of the hazardous waste storage area as well as corrective action at the ESN 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 of the hazardous waste storage area and corrective action at the ESN 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

September 2, 2009
Date

IT IS SO AGREED:

ERICO International Corporation

Signature

August 26, 2009
Date

William A. Fullmer
Printed or Typed Name

Vice President & Secretary
Title