OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS:

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

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MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL

June 11, 2007

Re: Director's Final Findings & Orders
Russell Products Co., Inc.
US EPA ID No.: OHD 066 039 801

Ms. Peggy L. Russell
Chief Operating Officer
Russell Products Co., Inc.
275 North Forge Street
Akron, OH 44304

Dear Ms. Russell:

Here are the Director's Final Findings and Orders (Orders) issued to Russell Products Co., Inc. on June 11, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.h. and Order No. 2.a. through 2.h. Please remember that your first payments are due no later than September 9, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic at (330) 963-1200.

Sincerely,

David A. Sholtis, Assistant Chief
Division of Hazardous Waste Management

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Attachments

c: Michael A. Savage, Chief, DHWM CO
Harry Sarvis, Mgr., CAS, DHWM CO
Elissa Miller, Legal
Heidi Greismer, PIC
Kurt Princic, Mgr., DHWM, NEDO

OHIO E.P.A.

JUN 11 2007

DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Russell Products Co., Inc.
12128 Sprecher Avenue
Cleveland, Ohio 44135

Respondent

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: _____ Date: 6-11-07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Russell Products Co., 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

The Director of Ohio EPA has determined the following findings:

1. Respondent owns and operates an industrial coating operation at 12128 Sprecher Ave., in Cleveland, Cuyahoga County (Facility). Respondent is an Ohio corporation, licensed to do business on August 13, 1973.

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 OHD066039801.

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 cleaning and coating line sludges (D002 and D007) and spent paint related wastes (D001, D039, F002, F003 and F005).

5. On March 10, March 23 and April 13, 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. Stored hazardous waste in quantities exceeding 6000kg and for greater than 180 days without a permit, in violation of ORC § 3734.02 (E) and (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 have the required spill equipment available for the hazardous waste accumulation area, in violation of OAC rule 3745-65-32(B);

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

i. Failed to properly manage universal waste lamps in containers or packages, in violation of OAC rule 3745-273-13(D)(1);

j. Failed to properly label universal waste lamps, in violation of OAC rule 3745-273-14(E);

k. Failed to have a system for demonstrating how long universal waste lamps had been on-site, in violation of OAC rule 3745-273-15(C);

l. Failed to inform employees on the proper handling and emergency procedures associated with universal waste lamps, in violation of OAC rule 3745-273-16;

m. Failed to comply with land disposal restriction (LDR) requirements, in violation of OAC rule 3745-270-07;

n. Failed to submit annual hazardous waste reports, in violation of OAC rule 3745-52-41; and

o. Failed to produce a copy of a hazardous waste manifest signed by the designated facility, in violation of OAC rule 3745-52-40(A).

6. By letter dated April 26, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders. In this letter, Ohio EPA also 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. In addition, Ohio EPA notified Respondent that the violations referenced in Finding Nos. 5.b., 5.c., 5.d., 5.e., 5.f., 5.g., 5.i., 5.j. and 5.k. had been abated.

7. By letters dated May 18, 2006 and June 14, 2006, Respondent submitted responses to Ohio EPA's April 26, 2006 letter.

8. By letter dated June 27, 2006, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.l., 5.m., 5.n. and 5.o. of these Orders.

9. By electronic correspondence dated June 29, 2006, Respondent submitted a response to Ohio EPA's June 27, 2006 letter.

10. By letter dated August 22, 2006, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.h. of these Orders.

11. During the inspections referenced in Finding No. 5. of these Orders, Ohio EPA identified that Respondent had generated six containers (five 55-gallon drums and one super-sack) of hazardous waste in the month of November, 2005 thus operating as an episodic large quantity generator of hazardous waste. Respondent did not comply with the large quantity generator regulations for this month and the subsequent months these wastes remained on-site, in violation of OAC rule 3745-52-34(A). These hazardous wastes were shipped off-site on March 17, 2006. In addition, Respondent stored these containers of hazardous waste on-site for greater than 90 days, in violation of ORC § 3734.02 (E) and (F).

12. Because Ohio EPA did not observe any releases of hazardous waste at the time of the inspections referenced in Finding No. 5. of these Orders and Respondent is still using the hazardous waste accumulation area, the Director has determined that closure of the unpermitted storage area is not required at this time. Therefore, no further action is required at this time to abate the ORC § 3734.02 (E) and (F) violation referenced in Finding Nos. 5.a. and 11. of these Orders. In addition, no further action is required to abate the OAC rule 3745-52-34(A) violation referenced in Finding No. 11. of these Orders because Respondent is now operating as a small quantity generator. Should Respondent generate over 1000kg of hazardous waste or 1 kg of acute hazardous waste in a calendar month then Respondent shall comply with the LQG requirements for generators of hazardous waste.

13. Based upon a review of financial information submitted by Respondent, Ohio EPA determined that Respondent does not possess the financial ability to pay the entire civil penalty settlement proposed in the Director's letter of March 23, 2007.

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 $49,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $39,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

    a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00;

g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00; and

h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,875.00.

Each of the payments above shall be made by an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining $10,000.00 of civil penalty, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $10,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

a. Within 90 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

b. Within 180 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

c. Within 270 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

d. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

e. Within 450 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

f. Within 540 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00;

g. Within 630 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00; and

h. Within 720 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $1,250.00.

Each of the payments above shall be made by official checks made payable to "Treasurer, State of Ohio." The officials check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, 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.

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.h. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. of these Orders. A copy of each check shall be submitted in accordance with Section X. of these Orders.

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 of the hazardous waste unit as well as 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 of the hazardous waste unit 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

JUN 11 2007
Date

IT IS SO AGREED:

Russell Products Co., Inc.

Signature

5/15/2007
Date

Peggy L. Russell
Printed or Typed Name

Chief Operating Officer
Title