

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.

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL



Date: 11.10.08

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

FedEx Freight East, Inc.  
377 Gateway Drive  
Chillicothe, Ohio 45601-3976

Respondent

Director's Final  
Findings and Orders

PREAMBLE

It is hereby agreed by and among the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to FedEx Freight, Inc. (Respondent) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under § 3734.13 and § 3745.01 of the Ohio Revised Code (ORC).

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 Respondent or of the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.

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 FedEx owns and operates a freight handling facility at 377 Gateway Drive, Chillicothe, Ross County, Ohio 45601-3976.
3. Rocal, Inc. owns and operates a sign manufacturing facility at 3186 County Road 550, Frankfort, Ross County, Ohio 45628 (New Rocal Facility).
4. Rocal, Inc. owns and operates a sign manufacturing facility at 60 North Fork Lane, Frankfort, Ross County, Ohio 45628 (Old Rocal Facility).
5. On June 13, 2006, Ohio EPA conducted a compliance evaluation inspection at the New Rocal Facility.
6. As a result of the inspection, Ohio EPA determined that:
  - a. Waste Respondent had transported from approximately January 1, 2006 until June 15, 2006 from the New Rocal Facility to the Old Rocal Facility was hazardous waste, in violation of ORC § 3734.02(F);
  - b. Respondent failed to obtain a USEPA ID number prior to transporting hazardous waste, in violation of OAC Rule 3745-53-11;
  - c. Respondent from approximately January 1, 2006 until June 15, 2006, accepted hazardous waste from the New Rocal Facility and transported the waste to the Old Rocal Facility without a hazardous waste manifest, in violation of OAC Rule 3745-53-20; and
  - d. Respondent failed to keep records required of transporters, when transporting hazardous waste off-site, in violation of OAC Rule 3745-53-22.
7. During the June 13, 2006 inspection, Ohio EPA reviewed documentation relating to the operation of the Old Rocal Facility.
8. On June 14 and June 15, 2006, Ohio EPA personnel spoke with Respondent's personnel regarding Respondent's waste management practices.
9. In a letter dated July 7, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 6.
10. On August 17, 2006, Respondent, through its legal counsel, replied to Ohio EPA's July 7, 2006 letter.

11. By letter dated December 15, 2006, Ohio EPA notified Respondent that Respondent had abated the violations noted in Finding Nos. 6.b., 6.c. and 6.d. The Director has also determined that no further action is required of Respondent to address the violation referenced in Finding No.6.a. since the hazardous waste was ultimately shipped off-site to a permitted hazardous waste facility.

#### **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 to Ohio EPA the amount of \$14,000.00 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 \$11,200.00 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 \$11,200.00. 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 \$2,800.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$2,800.00 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 \$2,800.00. 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 \$2,800.00 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 demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency  
Southeast District Office  
Division of Hazardous Waste Management  
Attn: DHWM Manager  
2195 Front Street  
Logan, Ohio, 43138

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  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Chris Korleski, Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
50 West Town Street, Suite 700  
Columbus, Ohio 43215

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, 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.

**IT IS SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Chris Korleski  
Director

11/4/08  
Date

**IT IS SO AGREED:**

**FedEx Freight East, Inc.**

  
\_\_\_\_\_  
Signature

10/6/08  
Date

Brad Crawford  
\_\_\_\_\_  
Printed or Typed Name

Senior Counsel, FedEx Freight East, Inc.  
\_\_\_\_\_  
Title