OHIO E.P.A.
JUN 24 2014
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Tremcar U.S.A., Inc.
436 12th Street N.E.
Strasburg, OH 44680

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: [signature] Date: 6-24-14

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Tremcar U.S.A., Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 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 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 there under.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director may, by order, exempt any person generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976,

90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

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

3. Respondent owns and operates a tanker trailer manufacturing and repair business which involves processes such as welding, sandblasting, and painting at its facility at 436 12th Street N.E., Strasburg, Tuscarawas County, Ohio (Facility).

4. Ohio EPA has issued U.S. EPA identification number OHD085231579 for the Facility.

5. At the Facility, Respondent generates hazardous waste as that term is defined by ORC §3734.01 and OAC rule 3745-50-10(A). Respondent generates, at a minimum, spent thinner, which is characteristically hazardous due to ignitability, D001, as described in OAC rule 3745-51-21, and listed hazardous waste, F003 and F005, as described in OAC rule 3745-51-31, from cleaning paint guns and lines.

6. In February 2012, Ohio EPA received multiple complaints regarding the mismanagement of the hazardous waste described in Finding No. 5. of these Orders. The complaints, in part, alleged the unlawful disposal of hazardous waste spent thinner in an area outside an exterior door, and through a hole in an interior block wall where the floor meets the wall in the paint room at the Facility.

7. Due to the multiple complaints as described in Finding No. 6. of these Orders, Ohio EPA conducted a complaint investigation and compliance evaluation inspection (inspections) on February 15 and 21, 2012, to determine Respondent's compliance with Ohio's hazardous waste laws as set forth in ORC Chapter 3734. and OAC Chapter 3745. During the inspections, Ohio EPA observed evidence of the complaint allegations described in Finding No. 6. of these Orders. Specifically, Ohio EPA found paint waste on the ground adjacent to the exterior door of the paint room and paint waste coating an approximately 4-inch hole in an interior wall where the floor meets the wall in the paint room at the Facility. Respondent did not have any records of proper off-site management of hazardous waste spent thinner since the last Ohio EPA inspection in 2005. At the time of the inspection Ohio EPA requested information regarding Respondent's paint thinner use, including product purchase records and material safety data sheets (MSDs).

8. By electronic mail dated February 16, 2012, Respondent provided photographs showing a representative from the Facility removing the paint waste from the ground adjacent to the exterior door of the paint room, along with the surrounding soil, and placing it into a dumpster.

9. By electronic mail on February 25, 2012, Respondent requested information from Ohio EPA regarding testing of the paint waste and soil referenced in Findings Nos. 7. and 8. of these Orders. By electronic mail on February 27, 2012, Ohio EPA responded to Respondent's request.

10. By electronic mail on February 27 and February 29, 2012, Respondent submitted additional information including MSDs and purchase records for the paint and paint thinner used at the Facility.

11. By letter dated March 7, 2012, Ohio EPA informed Respondent that as a result of the inspections referenced in Findings No. 7. of these Orders and the documentation referenced in Finding No. 10 of these Orders, Ohio EPA determined, *inter alia*, Respondent had failed to determine if waste generated at the Facility, specifically the paint waste on the ground outside the paint room door, was hazardous waste, in violation of OAC rule 3745-52-11. The letter also requested additional information regarding past management of the hazardous waste spent thinner described in Finding No. 5. of these Orders.

12. By electronic mail on March 13, 2012, Respondent provided analytical results for the waste paint and soil removed from the ground outside the paint room door. These results demonstrated that the soil contained the hazardous constituents which are also found in the hazardous waste spent thinner generated at the Facility.

13. By letter dated April 13, 2012, Ohio EPA notified Respondent it had abated the violation of OAC rule 3745-52-11 referenced in Finding No. 11. of these Orders. Additionally, Ohio EPA informed Respondent that based upon the information referenced in Findings Nos. 7., 8., 10., and 12. of these Orders, Ohio EPA determined that Respondent had, *inter alia*:

    a. Established and operated a hazardous waste disposal facility without a hazardous waste installation and operation permit, in violation of ORC §3734.02(E) and (F), through the disposal of spent thinner described in Finding No. 5. of these Orders on the ground outside the paint room door and in the hole in the concrete block where the floor meets the wall in the

paint room at the Facility; and

b. Failed to have a closure plan for areas where the illegal disposal of hazardous waste has occurred at the Facility, in violation of OAC rule 3745-55-12.

14. By letter dated May 2, 2012, Ohio EPA again notified Respondent of the violations of ORC §3734.02(E) and (F) and OAC rule 3745-55-12 referenced in Finding No. 13. of these Orders, and again requested additional information regarding observations made by Ohio EPA during the February 16, 2012, inspection of the Facility and referenced in Finding No. 11. of these Orders.

15. By electronic mail on August 10, 2012, Respondent submitted a response to the May 2, 2012, letter from Ohio EPA. This response included information regarding the spent thinner described in Finding No. 5. of these Orders, Respondent's generator status, and other assorted details about waste management practices at the Facility. Based on this information, in March 2012 when Respondent shipped the hazardous waste spent thinner and waste paint related materials, Respondent was a small quantity generator as that term is defined by OAC rule 3745-50-10(A).

16. By electronic mail on September 17, 2012, a consultant on behalf of the Respondent submitted additional information in response to the May 2, 2012, letter from Ohio EPA. In part, the information proposed a sampling plan for areas where hazardous waste was disposed as well as information regarding management of hazardous waste at the Facility since the inspections.

17. Due to Respondent's establishment and operation of a hazardous waste disposal facility as described in Finding No. 13. of these Orders, Respondent is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

18. The submittal of a Closure Plan which complies with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100 in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

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 is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, provided that Respondent complies with the following:

    a. Within 60 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for all hazardous waste disposal areas at the Facility, including but not limited to:

        i. The ground outside the paint room door referenced in Finding No. 13. of these Orders; and

        ii. The area in the paint room referenced in Finding No. 13. of these Orders, where the concrete block wall meets the floor, and the 4-inch round hole coated with dried paint was located.

    The Closure Plan shall be submitted to the attention of Ed Lim, Manager, Engineering Section, Division of Environmental Response and Revitalization at the Ohio EPA Central Office address specified in Section X. of these Orders. Submittal of a closure plan for the areas described in this Order will abate the violations referenced in Finding No. 13.b. of these Orders.

b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100.

c. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement.

d. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13.

2. Pursuant to the schedule contained within the Closure Plan required by Order No. 1.a, Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47.

3. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rule 3745-55-15. Closure certification of the area(s) described in Order No. 1.a. will abate the violations referenced in Finding No. 13.a.

4. Respondent shall pay Ohio EPA the amount of $18,000.00 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 $14,400.00 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 $14,400.00. 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 $3,600.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $3,600.00 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 $3,600.00. 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, and an additional copy of this check shall be sent to Manager, Compliance and Enforcement Section, 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. 4.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 4.b., the amount of $3,600.00 in accordance with the procedures in Order No. 4.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Material and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Respondent.

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
Southeast District Office
Division of Materials and Waste Management
2195 Front Street
Logan, Ohio 43138
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Craig W. Butler, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section
For deliveries to the building:

Craig W. Butler, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and 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 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 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 right to seek corrective action at the Facility by Respondent, which right 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

Craig W. Butler
Director

JUN 2 4 2014
Date

IT IS SO AGREED:

Tremcar U.S.A., Inc.

Signature

Date May 27th, 2014

ANNIE TREMBLAY
Printed or Typed Name

Chief operating officer
Title

Ohio EPA Invoice/Receipt

Date Printed: June 24, 2014

Revenue ID: 985096

Please include this Revenue ID with all correspondence.

Place ID: 319524

Information: Tremcar USA Inc
436 Twelfth St NE
Strasburg, OH 44680-

Due Date: **July 24, 2014**

Amount Due: **$14,400.00**

Effective Date: June 24, 2014

Revenue Description: DHWM- Findings and Orders - hazardous waste cleanup
Program Name: RCRA C - Hazardous Waste
Reason: Civil Penalty Tremcar USA Inc.

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice **Detach Here - Please Return This Portion With Your Payment**

Place ID: 319524

Information: Tremcar USA Inc
436 Twelfth St NE
Strasburg, OH 44680-

Due Date: **Jul 24, 2014**

Amount Due: **$14,400.00**

Secondary Type/Id: RCRA / OHD085231579

Revenue Type: FFOHW

Amount Enclosed: $_____

Please write this number on your check. Revenue ID: 985096
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: **Ohio Environmental Protection Agency - OFA**
Department L-2711
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: _____
Check Date: _____
Check Number: _____
Check Amount: $_____

		1440000	FFOHW	985096

Ohio EPA Invoice/Receipt

Date Printed: June 24, 2014

Revenue ID: 985098

Please include this Revenue ID with all correspondence.

Place ID: 319524

Information: Tremcar USA Inc
436 Twelfth St NE
Strasburg, OH 44680-

Due Date: July 24, 2014

Amount Due: $3,600.00

Effective Date: June 24, 2014

Revenue Description: DHWM- Findings and Orders - hazardous waste cleanup
Program Name: RCRA C - Hazardous Waste
Reason: SEP Clean Diesel School Bus Fund - Tremcar USA, Inc.

For some Revenues, Interest and/or Penalties may be charged for late payment.

Next Interest Date (if applicable):

Next Penalty Date (if applicable):

Remittance Advice **Detach Here - Please Return This Portion With Your Payment**

Place ID: 319524

Information: Tremcar USA Inc
436 Twelfth St NE
Strasburg, OH 44680-

Due Date: Jul 24, 2014

Amount Due: $3,600.00

Secondary Type/Id: RCRA / OHD085231579

Revenue Type: FFOHW

Amount Enclosed: $_____

Please write this number on your check. Revenue ID: 985098
Make check or money order payable to "Treasurer, State of Ohio"

Remit to: **Ohio Environmental Protection Agency - OFA**
Department L-2711
Columbus, OH 43260-2711

For Ohio EPA use only

Check ID: _____
Check Date: _____
Check Number: _____
Check Amount: $_____

		360000	FFOHW	985098