



State of Ohio Environmental Protection Agency

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**MAILING ADDRESS:**

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

**CERTIFIED MAIL**

7007 0220 0000 7613 0568

November 16, 2007

**Re: Director's Final Findings & Orders**

The Sherwin-Williams Company  
US EPA ID No.:  
OHR 000 037 762 Warrensville Facility  
OHD 074 552 258 Canal Facility  
OHD 986 983 392 Broadway Facility  
OHR 000 005 462 Puritas Facility  
Center Ridge Facility  
North Court Facility  
New World Facility

Mr. Louis E. Stellato,  
Vice President, General Counsel and Secretary  
The Sherwin-Williams Company  
101 Prospect Avenue NW  
Cleveland, Ohio 44115-1075

Dear Mr. Stellato:

Here are the Director's Final Findings and Orders (Orders) issued to The Sherwin Williams Company on November 16, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order Nos. 1.a. through 1.b. Please remember that your payments are due no later December 17, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic at (330) 425-9171.

Sincerely,

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

**Attachments**

cc: Michael A. Savage, Chief, DHWM  
Harry Sarvis, Mgr., CAS, DHWM  
Elissa Miller, Legal  
Heidi Greismer, PIC  
Kurt Princic, Mgr., DHWM, NEDO  
Allen J. Danzig, The Sherwin-Williams Company

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director



OHIO E.P.A.

NOV 16 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

The Sherwin-Williams Company  
101 Prospect Avenue NW  
Cleveland, Ohio 44115

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 The Sherwin-Williams Company (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 Respondent or of the Facilities 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.

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: 11-16-07

#### **IV. FINDINGS**

All of the findings necessary for the issuance of these Orders pursuant to ORC Sections 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 is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates facilities in Ohio located at: 4440 Warrensville Center Road, Warrensville Heights, Cuyahoga County (Warrensville Facility); 601 Canal Road, Cleveland, Cuyahoga County (Canal Facility); 10740-A Broadway Avenue, Garfield Heights, Cuyahoga County (Broadway Facility); 20611 Center Ridge Road, Rocky River, Cuyahoga County (Center Ridge Facility); 855 North Court Street, Medina, Medina County (North Court Facility); 2121 New World Drive, Columbus, Franklin County (New World Facility); and 15020 Puritas Avenue, Cleveland, Cuyahoga County (Puritas Facility).

#### **Findings related to Respondent's Warrensville Facility**

3. At the Warrensville Facility, Respondent operates as a research and development center, and notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000037762.
4. At the Warrensville 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 large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Warrensville Facility includes spent solvents (D001, D022, D035, D038, F002, F003, 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 that inspection, Ohio EPA determined that Respondent had, on April 5, June 1, August 3, and October 22, 2004, caused to be transported a total of ten containers of hazardous waste to Vexor. Specifically, four of the ten containers of hazardous waste were characteristic for ignitability (D001), chloroform (D022), pyridine (D038) and were also listed hazardous waste (F002). The remaining six containers of hazardous waste were characteristic for ignitability (D001) and methyl ethyl ketone (D035) and were also listed hazardous waste (F003, F005). Vexor does not hold a hazardous waste facility installation and operation

permit issued in accordance with ORC Chapter 3734. The ten containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.

6. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported the ten containers of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F).
7. Between April 7 and October 22, 2004, the ten containers of hazardous waste were transported from Vexor to Hukill Chemical Corporation (Hukill), a facility operating under a hazardous waste facility installation and operation permit.
8. On June 22, 2006, Ohio EPA conducted a compliance evaluation inspection at the Warrensville Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Failed to determine whether wastes generated at the Warrensville Facility were hazardous wastes, in violation of OAC rule 3745-52-11;
  - b. Failed to mark two containers of hazardous waste with the accumulation start date and with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(2) and (3);
  - c. Failed to conduct and document weekly inspections of the hazardous waste less than ninety day accumulation area at the Warrensville Facility, in violation of OAC rule 3745-66-74;
  - d. Failed to maintain an immediately accessible communication device in the hazardous waste storage area at the Warrensville Facility, in violation of OAC rules 3745-65-32(B) and 3745-65-34(A);
  - e. Failed to close containers holding universal waste lamps, in violation of OAC rule 3745-273-13(D);
  - f. Failed to label/mark containers holding universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E); and

- g. Failed to provide training for employees at the Warrensville Facility that handle and/or manage universal waste, in violation of OAC rule 3745-273-16.
- 9. By letter dated August 3, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 6 and 8.a. through 8.g. of these Orders. Also in the August 3, 2006 letter, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 8.b. of these Orders.
- 10. In correspondence dated September 6, 2006, Respondent provided responses to Ohio EPA's August 3, 2006 letter.
- 11. By letter dated September 21, 2006, Ohio EPA notified Respondent that, based upon the information contained in Respondent's September 6, 2006 correspondence, Respondent had abated the violations referenced in Finding Nos. 8.a. and 8.c. through 8.g. of these Orders.
- 12. Because the ten containers of hazardous waste were transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) violation referenced in Finding No. 6 of these Orders.

**Findings related to Respondent's Canal Facility**

- 13. At the Canal Facility, Respondent operates as a research and development center, and notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD074552258.
- 14. At the Canal 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 large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Canal Facility includes spent solvents (D001, D035, F003, F005), waste paint (D001, F003), and spent aerosol cans (D001, D005, D035).
- 15. 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 that inspection, Ohio EPA determined that Respondent had, on November 12, 2003, caused to be transported one container of ignitable hazardous waste (D001) to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The container of

waste was transported as non-hazardous waste and was accompanied by non-hazardous shipping papers.

16. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported the container of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F).
17. On November 12, 2003, the container of hazardous waste was transported from Vexor to Hukill, a facility operating under a hazardous waste facility installation and operation permit.
18. On May 12, 2006, Ohio EPA conducted a compliance evaluation inspection at the Canal Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Failed to determine whether wastes generated at the Canal Facility were hazardous wastes, in violation of OAC rule 3745-52-11;
  - b. Failed to mark containers of hazardous waste with the accumulation start date and with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(2) and (3);
  - c. Failed to submit a copy of the hazardous waste contingency plan to local authorities for use during an emergency at the Canal Facility, in violation of OAC rule 3745-65-53(B);
  - d. Failed to keep one container of hazardous waste closed when not adding or removing waste, in violation of OAC rule 3745-66-73;
  - e. Failed to accumulate universal waste lamps in containers, in violation of OAC rule 3745-273-13(D); and
  - f. Failed to label/mark containers holding universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E).
19. In correspondence dated May 19, 2006, Respondent submitted responses to Ohio EPA's May 12, 2006 compliance evaluation inspection.
20. By letter dated May 31, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 18.a. through 18.f. of these Orders. Also in the May 31, 2006 letter, Ohio EPA notified Respondent that

Respondent had abated the violations referenced in Finding Nos. 18.b. through 18.f. of these Orders.

21. In correspondence dated June 23, 2006, Respondent provided responses to Ohio EPA's May 31, 2006 letter.
22. By letter dated August 3, 2006, Ohio EPA notified Respondent of the ORC § 3734.02(F) violation referenced in Finding No. 16 of these Orders. Also in the August 3, 2006 letter, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 18.a. of these Orders.
23. Because the container of hazardous waste was transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) violation referenced in Finding No. 16 of these Orders.

#### **Findings related to Respondent's Broadway Facility**

24. At the Broadway Facility, Respondent conducts paint mixing and color adjustment activities and notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD986983302.
25. At the Broadway 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 large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Broadway Facility includes spent solvents (D001, D035, F003, F005), batch overage and waste paint (D001, D035, F003, F005), and hazardous waste paint solids (D035, F003, F005).
26. 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 that inspection, Ohio EPA determined that Respondent had, on June 8, 2004, caused to be transported two containers of ignitable hazardous waste (D001) to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.
27. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported two containers of hazardous waste to Vexor, the Director has determined that Respondent



violated ORC § 3734.02(F).

28. On August 10, 2004, the two containers of hazardous waste were transported from Vexor to American Environmental Services, Inc. (AES), a facility in another state operating under a license or permit issued in accordance with the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.
29. On September 23, 2004, Ohio EPA conducted a compliance evaluation inspection at the Broadway Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Failed to determine whether wastes generated at the Broadway Facility are hazardous wastes, in violation of OAC rule 3745-52-11;
  - b. Failed to mark four containers of hazardous waste with the accumulation start date, in violation of OAC rule 3745-52-34(A)(2);
  - c. Failed to mark containers of hazardous waste with the words, "Hazardous Waste," or other words that identify its contents, in violation of OAC rule 3745-52-34(C);
  - d. Failed to keep containers of hazardous waste closed when not adding or removing waste, in violation of OAC rule 3745-66-73(A);
  - e. Failed to maintain a complete hazardous waste contingency plan at the Broadway Facility that includes all pertinent information, in violation of OAC rule 3745-65-52;
  - f. Failed to conduct weekly inspections of emergency equipment at the Broadway Facility, in violation of OAC rule 3745-65-33;
  - g. Failed to conduct and document weekly inspections of the hazardous waste less than ninety day accumulation area at the Broadway Facility, in violation of OAC rule 3745-66-74;
  - h. Failed to provide annual hazardous waste management training to employees at the Broadway Facility that handle and/or manage hazardous waste, in violation of OAC rule 3745-65-16; and
  - i. Failed to label two containers holding used oil with the words, "Used Oil," in violation of OAC rule 3745-279-22(C).

30. In correspondence dated October 1 and 14, 2004, Respondent provided responses to Ohio EPA's September 23, 2004 compliance evaluation inspection.
31. By letter dated October 18, 2004, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 27 and 29.a. through 29.i. of these Orders. Also in the October 18, 2004 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 29.b., 29.c., 29.d., and 29.i. of these Orders.
32. In correspondence dated November 16, 2004, Respondent provided responses to Ohio EPA's October 18, 2004 letter.
33. By letter dated December 20, 2004, Ohio EPA provided responses to Respondent's November 16, 2004 letter.
34. In correspondence dated January 13, 2005, Respondent provided responses to Ohio EPA's December 20, 2004 letter.
35. On March 9, 2005, Ohio EPA conducted a follow-up inspection at the Broadway Facility. As a result of the follow-up inspection, Ohio EPA determined that Respondent had:
  - a. Stored one container of hazardous waste on-site in the less than ninety day accumulation area for greater than ninety days and, thereby, established and operated an unpermitted hazardous waste storage facility, in violation of ORC § 3734.02(E) and (F);
  - b. Failed to label a container of hazardous waste with the words, "Hazardous Waste," or other words that identify its contents, in violation of OAC rule 3745-52-34(C); and
  - c. Failed to keep a container of hazardous waste closed when not adding or removing waste, in violation of OAC rule 3745-66-73(A).
36. In correspondence dated March 24, 2005, Respondent provided responses to Ohio EPA's March 9, 2005 follow-up inspection.
37. By letter dated March 31, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 35.a. through 35.c. of these Orders. Also in the March 31, 2005 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 29.a., 29.e. through 29.h., 35.b., and 35.c. of these Orders.

38. Based upon a review of information obtained subsequent to Ohio EPA's April 7, 8, 14 and May 16, 2005 inspection of Vexor, referenced in Finding No. 26 of these Orders, Ohio EPA determined that Respondent had, on July 13 and December 13, 2005, caused to be transported two containers of ignitable hazardous waste (D001) to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.
39. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported two containers of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F).
40. Between July 20, 2005 and January 13, 2006, the two containers of hazardous waste were transported from Vexor to AES, a facility in another state operating under a license or permit issued in accordance with the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.
41. Based upon the identification of the ORC § 3734.02(F) violation referenced in Finding No. 39 of these Orders, Ohio EPA conducted an additional compliance evaluation inspection at the Broadway Facility on May 24, 2006. As a result of the inspection, Ohio EPA determined that Respondent had failed to label/mark containers holding universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E).
42. By letter dated June 5, 2006, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 39 and 41 of these Orders. Also in the June 5, 2006 letter, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 41 of these Orders.
43. In correspondence dated June 28, 2006, Respondent provided responses to Ohio EPA's June 5, 2006 letter.
44. Because the two containers of hazardous waste, referenced in Finding No. 26 of these Orders, and the two containers of hazardous waste, referenced in Finding No. 38 of these Orders, were transported from Vexor to AES, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) violations referenced in Finding Nos. 27 and 39 of these Orders. In addition, and because no releases of hazardous waste were observed in the less than ninety day accumulation area determined to

be an unpermitted storage area at the Broadway Facility, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) & (F) violation referenced in Finding No. 35.a. of these Orders.

**Findings related to Respondent's Center Ridge Facility**

45. At the Center Ridge 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 operates as a conditionally exempt small quantity generator of hazardous waste, and has not been issued a generator identification number. The hazardous waste generated by Respondent at the Center Ridge Facility includes waste paint related material (D001, D035).
46. 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 that inspection, Ohio EPA determined that Respondent had, on July 5, 2005, caused to be transported one container of hazardous waste, characteristic for ignitability (D001) and methyl ethyl ketone (D035), to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The container of waste was transported as non-hazardous waste and was accompanied by non-hazardous shipping papers.
47. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported one container of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F) and OAC rule 3745-52-11.
48. On July 7, 2005, the container of hazardous waste was transported from Vexor to Hukill, a facility operating under a hazardous waste facility installation and operation permit.
49. Because the container of hazardous waste was transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) and OAC rule 3745-52-11 violations referenced in Finding No. 47 of these Orders.

**Findings related to Respondent's North Court Facility**

50. At the North Court 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 operates as a conditionally exempt small quantity

generator of hazardous waste, and has been issued generator identification number OHD000684381. The hazardous waste generated by Respondent at the North Court Facility includes waste paint related material (D001, D035).

51. 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 that inspection, Ohio EPA determined that Respondent had, on October 27 and 28, and November 6 and 14, 2003, caused to be transported a total of four containers of hazardous waste, characteristic for ignitability (D001) and methyl ethyl ketone (D035), to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The containers of waste were transported as non-hazardous waste and were accompanied by non-hazardous shipping papers.
52. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported four containers of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F) and OAC rule 3745-52-11.
53. Between October 29 and November 14, 2003, the four containers of hazardous waste were transported from Vexor to Hukill, a facility operating under a hazardous waste facility installation and operation permit.
54. Because the containers of hazardous waste were transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) and OAC rule 3745-52-11 violations referenced in Finding No. 52 of these Orders.

#### **Findings related to Respondent's New World Facility**

55. At the New World 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 operates as a large quantity generator of hazardous waste, and has been issued generator identification number OHD046430328. The hazardous waste generated by Respondent at the New World Facility includes waste flammable liquids (D001, D005, D006, D007, F003, F005).
56. 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 that inspection, Ohio EPA

determined that Respondent had, on August 13, 2003, caused to be transported one container of hazardous waste to Vexor. Specifically, the container of hazardous waste was characteristic for ignitability (D001), barium (D005), cadmium (D006) and chromium (D007) and was also listed hazardous waste (F003, F005). Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The container of waste was transported as non-hazardous waste and was accompanied by non-hazardous shipping papers.

57. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported one container of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F) and OAC rule 3745-52-11.
58. On August 19, 2003, the container of hazardous waste was transported from Vexor to Hukill, a facility operating under a hazardous waste facility installation and operation permit.
59. Because the container of hazardous waste was transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) and OAC rule 3745-52-11 violations referenced in Finding No. 57 of these Orders.

#### **Findings related to Respondent's Puritas Facility**

60. At the Puritas 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 operates as a small quantity generator of hazardous waste, and has been issued generator identification number OHR000005462. The hazardous waste generated by Respondent at the Puritas Facility includes waste flammable liquids (D001).
61. 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 that inspection, Ohio EPA determined that Respondent had, on December 17, 2004, caused to be transported one container of ignitable hazardous waste (D001) to Vexor. Vexor does not hold a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734. The container of waste was transported as non-hazardous waste and was accompanied by non-hazardous shipping papers.

62. Because Respondent failed to properly evaluate its waste to determine if it was a hazardous waste and caused to be transported one container of hazardous waste to Vexor, the Director has determined that Respondent violated ORC § 3734.02(F) and OAC rule 3745-52-11.
63. On January 17, 2005, the container of hazardous waste was transported from Vexor to Hukill, a facility operating under a hazardous waste facility installation and operation permit.
64. Because the container of hazardous waste was transported from Vexor to Hukill, the Director has determined that no further action is required of Respondent to abate the ORC § 3734.02(F) and OAC rule 3745-52-11 violations referenced in Finding No. 62 of these Orders.

#### **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 \$50,000.00 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 \$40,000.00 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 \$40,000.00. 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 \$10,000.00 of the remaining civil penalty to Ohio EPA, 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). 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 \$10,000.00. 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 \$10,000.00 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 Facilities.

#### **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 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, 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 at the Broadway Facility, as well as corrective action at the Broadway Facility, 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 Broadway Facility by Respondent, 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**

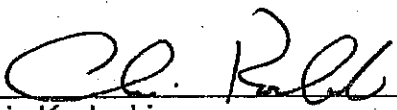
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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:**

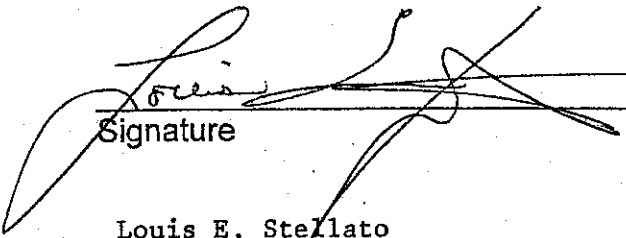
**Ohio Environmental Protection Agency**

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

November 16, 2007  
Date

**IT IS SO AGREED:**

**The Sherwin-Williams Company**

  
\_\_\_\_\_  
Signature  
  
Louis E. Stellato  
\_\_\_\_\_  
Printed or Typed Name

October 10, 2007  
Date

Vice President, General Counsel and Secretary  
Title