OHIO E.P.A.

DEC 20 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Hukill Chemical Corporation
7013 Krick Road
Bedford, Ohio 44146-4493

Director's Final Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Hukill Chemical Corporation ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3704.03 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 as hereafter defined 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 3704 and the rules promulgated thereunder.

IV. FINDINGS

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3704.03 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 owns and operates a treatment, storage and disposal facility for hazardous waste, located at 7013 Krick Road, Bedford, Cuyahoga County, Ohio.

certify this to be a true and accurate copy of the official document as filed in the records of the Ohio Environmental Protection Agency

Date 12-20-05

2. At the above-referenced facility, Respondent owns and operates emissions units that are identified in the table below:

SOURCE DESCRIPTION	SOURCE NUMBER	INSTALLATION/INITIAL OPERATION DATE
Spray paint booth	K001	1966
Bulk tank truck loading of blended material	P007	1966
Bulk tank truck loading of reclaimed material	P008	1966
L-430 thin-film vacuum pump	P009	1966
L-N050 vacuum pump 43	P010	April 1982
Volatile organic compound ("VOC") batch reflux distillation column	P011	1973
Air stripper	P012	July 1991
Drum processing operation	P015	prior to 1974
84-5-CL 5,140 gallon VOC distillate storage tank	T064	March 1990
73-5-CL 5,140 gallon VOC distillate storage tank	T065	March 1990
70-9.4-CL 9,395 gallon VOC distillate storage tank	T066	March 1990
71-9.4-CL 9,395 gallon VOC distillate storage tank	T067	March 1990
56-20-CL 16,000 gallon tank	T068	March 1990
68-4.6-CL 6,420 gallon VOC distillate storage tank	T069	March 1990
69-4.6-CL 6,425 gallon VOC distillate storage tank	T070	March 1990

An unassigned tank serving emissions unit P012 that was subject to NSPS Kb until 2003	hereinafter "X001"	July 1991

3. Emissions units K001, P007, P008, P009, P010, P011, P012, P015, T064, T065, T066, T067, T068, T069, T070 and X001 are "air contaminant sources" as defined in Ohio Administrative Code ("OAC") Rules 3745-15-01(C)) and (W), 3745-31-01(G), and 3745-35-01(B)(1), and ORC § 3704.01(C)). However, Respondent has advised that emissions unit K001 is no longer in operation.

4. OAC Rule 3745-77-01(W) defines "major source" to include certain stationary sources whose potential to emit ("PTE") for hazardous air pollutants ("HAPs") exceeds the threshold of 25 tons per year ("TPY").

5. OAC Rule 3745-77-02(LL) states that a "Title V source" is subject to the permitting requirements of OAC Rule 3745-77-02.

6. OAC Rule 3745-15-06(B)(1) requires, in part, the owner or owner of an air contaminant source to report any malfunction of air pollution control equipment that results in the emission of air contaminants in violation of any applicable law. OAC Rule 3745-15-07(A) prohibits, in part, any person from causing a public nuisance by emitting excessive odors.

7. OAC Rule 3745-21-09(B)(3)(d) requires, in part, an owner or operator of a coating line that is exempt from the emission limitations of OAC Rule 3745-21-09(U)(1), pursuant to OAC Rule 3745-21-09(U)(2)(e), to maintain daily records of coating usage.

8. OAC Rule 3745-31-02 prohibits any person from installing an air contaminant source unless a Permit to Install ("PTI") has been applied for and obtained, except as provided by rule or law.

9. OAC Rule 3745-77-02 prohibits the operation of a Title V source without either timely applying for a Title V permit or possessing a Title V permit from Ohio EPA. OAC Rule 3745-77-04(D) requires the owner or operator of a Title V source to timely submit an application for a Title V permit for the first time within twelve months after the source becomes subject to the Title V permit program.

10. OAC Rule 3745-78-02(A) requires an owner or operator of a facility that is subject to the Title V permit program to submit annual fee emission reports that identify the actual emissions of specified air pollutants and to pay fees for such emissions upon receipt of invoices.

11. ORC § 3704.05(A) prohibits any person from allowing any emission from any source in excess of that permitted in any rule adopted by the Director of Ohio EPA. ORC § 3704.05 (C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(F) prohibits any person from failing to submit plans and specifications as required by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. ORC § 3704.05(J)(2) prohibits, in part, any person from violating any terms and conditions of a Title V permit and any applicable filing requirement of the Title V permit program. ORC § 3704.05(K) prohibits any person from operating a Title V source without either timely applying for a Title V permit or possessing a Title V permit from Ohio EPA.

12. On July 19, 1994, Respondent provided to a representative of the Cleveland Division of Air Quality ("CDAQ"), a contractual representative of Ohio EPA in Cuyahoga County, a Title V Applicability Study spreadsheet and advised CDAQ that it did not believe that it was a Title V source. Respondent did not receive any response to the Title V Applicability Study spreadsheet from CDAQ.

13. On September 27, 1994, Respondent submitted to CDAQ an updated Title V Applicability Study spreadsheet, which had been revised to update the information regarding the tanks in Respondent's Solvent Tank Farm. The updated Title V Applicability Study spreadsheet indicated that Respondent's facility PTE for volatile organic compounds ("VOC") was 15.23 TPY; Respondent estimated that approximately 75% of its VOC emissions were HAPs. Respondent did not receive any response to the updated Title V Applicability Study spreadsheet from CDAQ.

14. On October 23, 1995, Respondent replied to a "1st Warning Letter" from CDAQ regarding Title V reports, in which Respondent advised that it did not believe that it was subject to Title V permit requirements because its PTE for HAPs was 11 to 12 TPY. Respondent did not receive any response to its October 23, 1995 letter from CDAQ.

15. Because it did not believe that it was a Title V source, Respondent did not apply for permits beyond those it already possessed or otherwise obtain limitations on its PTE that were federally enforceable.

16. On August 30, 2000, a representative of CDAQ conducted an inspection at Respondent's facility based on an odor complaint against Respondent. The inspection revealed that the pressure relief valve, of a truck containing ammonia, malfunctioned causing the fumes to be emitted into the air. The CDAQ determined that this release caused a public nuisance, in violation of OAC Rule 3745-15-07 and ORC § 3704.05(G). Also, since the malfunction was not reported to the CDAQ as required by

Ohio air regulations, Respondent was in violation of OAC Rule 3745-15-06(B) and ORC § 3704.05(G).

17. On August 31, 2000, CDAQ sent Respondent a notice of violation ("NOV") for the public nuisance that was observed during the August 30, 2000 inspection. In this NOV, CDAQ requested Respondent to submit a plan of corrective action for the above public nuisance within 14 days of the receipt of the NOV.

18. By a letter dated September 14, 2000 to CDAQ, Respondent outlined steps which it would employ to correct its odor problem. These steps included: (1) posting a sign to remind operators of the maximum allowable pressure for offloading to the tank; (2) notifying CDAQ immediately in the event of any future equipment malfunction or emissions exceedance; (3) replacing scrubber water monthly; and (4) installing a new ammonia vapor return line. According to CDAQ, Respondent implemented the above-outlined steps in October 2000.

19. In August 2002, Respondent conducted an engineering study in order to gain a better understanding of the efficiency of Respondent's equipment. The engineering study, which was not performed in accordance with U.S. EPA's approved methods, indicated that Respondent's PTE for HAPs may have exceeded 25 TPY.

20. Based upon the August 2002 stack testing, on October 25, 2002, and pursuant to ORC § 3745.72, Respondent sent CDAQ a letter of voluntary disclosure of non-compliance with regard to air regulations. This disclosure revealed: (1) the drum processing operation (emissions unit P015) might require a PTI for emitting more than the 10 pounds per day "de minimis" limit; and (2) the facility's PTE for HAPs may exceed the threshold of 25 tons per year of total HAPs and, therefore, the facility might be considered a major source pursuant to OAC Rule 3745-77-01(W). In this disclosure, Respondent submitted its corrective actions that included installing refrigerated condensers, which are the best available technology ("BAT") for emissions unit P010, and submitting PTI and PTO applications for the drum processing operation and federally enforceable state operating permit ("FESOP") applications for its facility within 60 days following the disclosure.

21. At Respondent's request CDAQ met with Respondent on November 13, 2002 to discuss the items in the voluntary disclosure letter. At the meeting Respondent advised CDAQ that it believed that the stack testing performed in August 2002 had provided erroneous results. Respondent also provided information regarding the new emissions control equipment it had decided to install and advised that it planned to repeat the stack testing. CDAQ responded that it wished to schedule a compliance inspection of Respondent's facility in December 2002.

22. On December 11, 2002, CDAQ conducted an inspection to evaluate the compliance status for each emissions unit at Respondent's facility.

23. Based upon its December 11, 2002 inspection, CDAQ sent Respondent a NOV on December 26, 2002 in which it cited Respondent for its failure to: (1) submit PTI and PTO applications for emissions unit P015 since it no longer qualified for "de minimis" status as of August 15, 2002; (2) provide daily records of coating usage for emissions unit K001; (3) submit the quarterly deviation reports for emissions unit P012 for the fourth quarter of 1998, all four quarters of 1999, and the first two quarters of 2000; (4) install the refrigerated condensers as the BAT for emissions unit P010 pursuant to Respondent's October 25, 2002 voluntary disclosure letter; and (5) submit the monthly and annual throughput volumes, in gallons, of the materials stored in emissions units T064 through T070 starting from February 6, 1991 (date of PTI issuance). CDAQ requested Respondent to submit a corrective action plan ("CAP") within 21 days to correct the above-listed violations.

24. By a letter dated January 20, 2003, Respondent answered CDAQ's December 26, 2002 NOV. In its letter, Respondent informed CDAQ that it: (1) planned to submit a FESOP application on or before March 20, 2003 to cover facility emissions; (2) enclosed the quarterly deviation reports for the fourth quarter of 1998, all four quarters of 1999, and the first two quarters of 2000 for emissions unit P012; (3) submitted the 2002 monthly and annual throughput report for emissions units T064 through T070; and (4) would install the evaporator condenser system by August 2003 as the BAT for emissions unit P010.

25. On January 28, 2003, CDAQ met with Respondent to discuss the PTE for Respondent's facility. At this meeting, CDAQ obtained information regarding the degradation of emissions units P010 and P011 in order to estimate the date that Respondent became subject to Title V permitting requirements. Based on CDAQ's theoretical calculation, CDAQ estimated that the PTE for Respondent's facility exceeded the annual 25 tons of HAPs threshold on September 23, 1997.

26. On January 30, 2003, Respondent submitted to CDAQ the breathing and working loss emission calculations for emissions units T068 and T077, an annual summary of drum processing operation from 1991 to 1999, and invoice records documenting the cleaning and maintenance of emissions units P010 and P011.

27. By letter dated February 5, 2003, Respondent advised CDAQ that the 2002 stack testing was not performed in accordance with U.S. EPA's approved test methods and was not representative of Respondent's potential emissions.

28. On February 13, 2003, CDAQ sent Respondent a NOV with an updated list of violations that were alleged to have occurred at Respondent's facility. Specifically, CDAQ outlined miscellaneous violations that were associated with the operation of emissions units K001, P007-P011, P015, T064-T070 and P012. CDAQ also reminded Respondent of its failure to timely submit a Title V permit application. However, in this NOV, CDAQ did not request a response from Respondent.

29. On March 19, 2003, Respondent submitted a PTO application for the tanks for emissions unit P012.

30. By a letter dated May 29, 2003, CDAQ informed Respondent that CDAQ could not grant the immunity requested in Respondent's October 25, 2002 audit disclosure for violations at its facility because based on the Title V rules (OAC Chapter 3745-77), Respondent was required to disclose or report all violations of applicable air pollution control regulations.

31. On August 12, 2003, Respondent, through its attorneys, sent a letter to CDAQ in which Respondent claimed that it should have been entitled to the immunity from civil or administrative penalties for the violations that were identified in its October 2002 voluntary disclosure.

32. On October 6, 2003 and June 9, 2004, Ohio EPA sent NOVs alleging that Respondent failed to submit the Title V fees for the calendar years 2002 and 2003, respectively. By a letter dated October 17, 2003, Respondent answered Ohio EPA's October 6, 2003 NOV. In this letter Respondent requested an extension until December 31, 2003 to submit the Title V fees for the year 2002; however neither Ohio EPA nor CDAQ responded to this request. Also CDAQ alleges that, from April 15, 1998 up to the present, Respondent failed to complete Title V Fee Emission Reports and pay Title V fees accordingly for the calendar years from 1997 to 2004, in violation of OAC Rule 3745-78-02(A) and ORC § 3704.05(G) and (J)(2). As Respondent did not believe that it was a Title V source, Respondent submitted non-Title V air emission fees for the calendar years from 1997 to 2001. Respondent submitted the synthetic minor fee for calendar year 2002. However CDAQ returned the synthetic minor fee submitted by Respondent for calendar year 2002.

33. On March 29, 2004, CDAQ informed Ohio EPA, Division of Air Pollution Control ("DAPC") that, on February 28, 2003, CDAQ received a PTI application from Respondent for emissions unit X001 due to it being subject to Subpart Kb of 40 CFR Part 60. CDAQ also informed DAPC that even though it considers Respondent's facility to be a major source, Respondent chose to obtain a FESOP to restrict its HAP emissions to under 25 TPY. Respondent's FESOP application for its facility was submitted on March 19, 2003. As of December 2004, this FESOP application was still pending for CDAQ's review.

34. From October 25, 2003 through December 18, 2003, Respondent failed to maintain complete daily records of coating usages for emissions unit K001, in violation of OAC Rule 3745-21-09(B)(3)(d) and ORC § 3704.05(G).

35. According to CDAQ, in 1999, Respondent added the drum auger and hochmeyer system to emissions unit P015 without first applying for and obtaining a PTI from Ohio EPA, in violation of OAC Rule 3745-31-02(A) and ORC § 3704.05(G).

36. From January 31, 1992 to the present, Respondent failed to submit annual reports of monthly and annual material throughputs as required by the special terms and conditions of PTI #13-2136 for emissions units T064 through T070 for the time periods from February 6, 1991 to December 31, 2001 and from January 2003 to December 31, 2003, in violation of ORC § 3704.05(C)). These reports are no longer needed by CDAQ.

37. Respondent failed to timely submit a PTI application and obtain a PTI for emissions unit X001 when it no longer qualified as a "de minimis" emissions unit due to the applicability of Subpart Kb of 40 CFR Part 60, in violation of OAC Rule 3745-31-02(A) and ORC § 3704.05(G). According to CDAQ, the PTI application for emissions unit X001 was no longer necessary due to a change in Subpart Kb of 40 CFR 60 in 2003.

38. Respondent's facility does not have in place federally enforceable limits to keep the PTE for total HAPs below the threshold of 25 TPY. Ohio EPA alleges that Respondent's facility is subject to the Title V permit requirements of OAC Rule 3745-77-02.

39. Since Respondent's facility did not have federally enforceable limits on its PTE, Respondent was required under OAC Rule 3745-77-02 (A) to either obtain a Title V permit or a FESOP to establish federally-enforceable permit restrictions that will result in a PTE for total HAPS for the facility that is less than 25 TPY.

40. Respondent failed to timely apply for and obtain either a Title V permit or a FESOP for its facility from Ohio EPA, in violation of OAC Rule 3745-77-02 (C)(2) and ORC § 3704.05(G) and (K). A FESOP application was submitted on March 19, 2003 by Respondent to take the facility out of the Title V requirements; however, the FESOP application is not acceptable and can not be approved by the Ohio EPA..

41. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within sixty (60) days after the effective date of these Orders and pursuant to OAC Chapter 3745-78, Respondent shall submit to Ohio EPA Title V fee emission reports for the years from 1997 through 2004 for its facility for each such year, and shall pay the fees accordingly upon receipt of invoices from Ohio EPA.

2. Within sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA complete and approvable PTI and/or FESOP applications to establish federally-enforceable permit restrictions that will result in a PTE for total HAPs for the facility that is less than 25 TPY.

3. Pursuant to ORC § 3704.06, Respondent is assessed a civil penalty in the amount of sixty thousand dollars ($60,000) in settlement of Ohio EPA's claim for civil penalties. Respondent shall pay to Ohio EPA the amount of forty-eight thousand dollars ($48,000) of the penalty. In lieu of paying the remaining twelve thousands dollars ($12,000) of the civil penalty, Respondent shall fund a SEP by making a contribution in the amount of $12,000 to Ohio EPA's Clean Diesel School Bus Fund (Fund 5CD). Respondent shall pay the amount forty-eight thousand dollars ($48,000) to Ohio EPA and twelve thousand dollars ($12,000) to Ohio EPA's Clean Diesel School Bus Fund pursuant to the following schedule:

a. Payments to School Bus Fund (5CD):

$7,500 within thirty (30) days after the effective date of these Orders, and

ii. $4,500 within one hundred twenty (120) days after the effective date of these Orders.

Respondent shall make the above-specified payments by official checks made payable to "Treasurer, State of Ohio". The official checks shall specify that such monies are to be deposited into Fund 5CD established by Ohio EPA for the Clean Diesel School Bus Program. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

b. Other payments to Ohio EPA:

$3,000 within one hundred twenty (120) days after the effective date of these Orders,

ii. $7,500 within two hundred ten (210) days after the effective date of these Orders,

iii. $7,500 within three hundred (300) days after the effective date of these Orders,

iv. $7,500 within three hundred ninety (390) days after the effective date of these Orders,

v. $7,500 within four hundred eighty (480) days after the effective date of these Orders,

vi. $7,500 within five hundred seventy (570) days after the effective date of these Orders, and

vii. $7,500 within six hundred sixty (660) days after the effective date of these Orders.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." Each official check shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the facility. Payments shall be made by an official checks made payable to "Treasurer, State of Ohio". The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying the Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Ohio EPA
Division of Air Pollution Control
P.O. Box 1049
Columbus, Ohio 43216-1049

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 the Chief of Ohio EPA's Division of Air Pollution Control 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."

The 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 the person authorized to sign in OAC Rule 3745-35-02(B)(1) for corporation or a duly authorized representative of Respondent as that term is defined in the above-referenced rule.

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

Except as otherwise specified in these Orders, all documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Cleveland Division of Air Quality
1925 St. Clair Avenue
Cleveland, Ohio 44114-2080
Attn: George Baker

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Thomas Kalman

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 specially waived in Section XII of these Orders.

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, 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

Joseph P. Koncelik
Director

12-16-05
Date

IT IS SO AGREED:

Hukill Chemical Corporation

Signature

December 13, 2005
Date

Robert L. Hukill
Printed or Typed Name

President
Title