

BEFORE THE OHIO  
ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

MAR 27 2008

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Ricketts Nitrogen Services, Inc.  
6755 Oakthorpe Road  
Thornville, OH 43076

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.

**PREAMBLE**

It is agreed by the parties hereto as follows:

By: *[Signature]* Date: 3-27-08

**I. JURISDICTION**

These Director's Final Findings and Orders ("Orders") are issued to Ricketts Nitrogen Services, Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") §§ 3753.08 and 3745.01.

**II. PARTIES BOUND**

These Orders shall apply to and be binding upon Respondent and successors in interest liable under Ohio law. No change in ownership of the Respondent or of the facility owned by the Respondent 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 3753 and the rules promulgated thereunder.

**IV. FINDINGS**

The Director of the Ohio EPA makes the following findings:

1. Respondent is a retail facility that sells anhydrous ammonia to farmers as an agricultural nutrient and is located at 6755 Oakthorpe Road in Thornville, Ohio. Anhydrous ammonia is stored in one 30,000-gallon storage tank (approximately 140,000 pounds), nineteen 1000-gallon nurse tanks, and four 1500-gallon nurse tanks. The quantity of anhydrous ammonia at the facility is approximately 245,000 pounds.
2. Anhydrous ammonia is a regulated substance listed in Ohio Administrative Code ("OAC") Rule 3745-104-04. An owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process, as

determined by OAC Rule 3745-104-02, shall comply with the requirements of OAC Rule 3745-104-06 through 49, where applicable, by submitting a Risk Management Plan ("RMP") and implementing a prevention program no later than June 21, 1999. On January 3, 2000, Ohio EPA, DAPC received delegation for the RMP program from U.S. EPA.

3. Anhydrous ammonia has a threshold amount of 10,000 pounds. Respondent stores anhydrous ammonia in an amount that exceeds the threshold established in OAC Rule 3745-104-04, and, as a result, Respondent is subject to the RMP requirements detailed in OAC Rule 3745-104-06.
4. On February 28, 2007, an RMP audit was conducted at the facility by Ohio EPA, DAPC. It was determined that an RMP had not been resubmitted on the five-year anniversary (September 7, 2005) to Ohio EPA or U.S. EPA, in violation of OAC Rule 3745-104-49. Furthermore, the following nine deficiencies were discovered during the inspection:
  - a. Respondent failed to establish a written management system for RMP elements, as required by OAC Rule 3745-104-07.
  - b. Respondent failed to maintain documentation for the worst case and alternative release scenarios, as required by OAC Rule 3745-104-15. The documentation was provided to Respondent by Ohio EPA auditors at the time of the audit.
  - c. Respondent failed to develop safety information, in violation of OAC Rule 3745-104-17.
  - d. Respondent failed to conduct a hazard analysis, in violation of OAC Rule 3745-104-18.
  - e. Respondent failed to prepare written operating procedures for the process, in violation of OAC Rule 3745-104-19.
  - f. Respondent failed to provide initial or refresher training to employees at least every three years, in violation of OAC Rule 3745-104-20.
  - g. Respondent failed to implement maintenance procedures, in violation of OAC Rule 3745-104-21.
  - h. Respondent failed to conduct an RMP compliance audit at least every three years, in violation of OAC Rule 3745-104-22.

- i. Respondent failed to coordinate its emergency response plan with appropriate agencies, in violation of OAC Rule 3745-104-36.
5. Respondent submitted a draft of the RMP for review by Ohio EPA on March 6, 2007. The final RMP was received by U.S. EPA and Ohio EPA on April 17, 2007.
6. Ohio EPA, DAPC sent a deficiency letter on March 12, 2007, specifying forty-five days to achieve compliance with Findings 4(a), and 4(c) through 4(i). Guidance to assist the facility in complying was provided at the time of the audit.
7. Documentation was submitted to Ohio EPA by Respondent on March 14, 2007. After reviewing the documentation, it was determined that only the deficiencies outlined in Findings 4(a), 4(d), 4(f), 4(h), and 4(i) were resolved.
8. A letter was issued to the facility on June 18, 2007, requesting additional documentation for the remaining deficiencies. A second warning letter was issued on September 18, 2007.
9. Due to the fact that no further documentation was received, the Ohio EPA auditor contacted Respondent on October 18, 2007 via telephone requesting the additional documentation.
10. On October 29, 2007, additional documentation was received. After reviewing the information, it was determined that the deficiencies described in Findings 4(c) and 4(e) remain.
11. The Ohio EPA auditor called the facility on November 18, 2007 and requested the additional information for Findings 4(c) and 4(e).
12. No further documentation has been submitted to resolve the remaining deficiencies from the February 28, 2007 audit. As a result, the deficiencies outlined in Findings 4(c) and (e) remain.
13. Documentation to resolve the deficiencies outlined in Findings 4(c) and (e) were submitted on January 8, 2008.
14. 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 benefits to the people of the State to be derived from such compliance.

## **V. ORDERS**

The Director hereby issues the following Orders:

1. Pursuant to ORC § 3753.09, Respondent shall pay the amount of two thousand two hundred fifty dollars (\$2,250) in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days after the effective date of these Orders, payment to Ohio EPA shall be made by an official check made payable to "Treasurer, State of Ohio" for two thousand two hundred fifty dollars (\$2,250) of the total amount which will be deposited into the Risk Management Plan fund established pursuant to ORC § 3753.05. The official check 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

2. A copy of the 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  
Lazarus Government Center  
50 West Town Street, Suite 700  
Columbus, Ohio 43216-1049

## **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V of these Orders.

## **VII. OTHER CLAIMS**

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person, firm, partnership or corporation, not a party to these Orders, for any liability arising from, or related to the operation of Respondent's facility.

## **VIII. OTHER APPLICABLE LAWS**

All actions required to be taken pursuant to these Orders shall be undertaken in accordance with the requirements of all applicable local, State and federal laws and

regulations. These Orders do not waive or compromise the applicability and enforcement of any other statutes or regulations applicable to Respondent.

#### **IX. MODIFICATIONS**

These Orders may be modified by agreement of the parties hereto. Modifications shall be in writing and shall be effective on the date entered in the journal of the Director of Ohio EPA.

#### **X. NOTICE**

All documents required to be submitted by Respondent pursuant to these Orders shall be addressed to:

Ohio Environmental Protection Agency  
Division of Air Pollution Control  
P.O. Box 1049  
Columbus, Ohio 43216-1049  
Attention: Sherri Swihart

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, 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:**

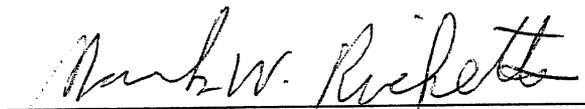
**Ohio Environmental Protection Agency**

  
Chris Korleski  
Director

3/26/08  
Date

**IT IS SO AGREED:**

**Ricketts Nitrogen Services, Inc.**

  
Signature

3-3-08  
Date

Mark W. Ricketts  
Printed or Typed Name

3-3-08  
Date

President  
Title