OhioEPA

State of Ohio Environmental Protection Agency

STREET ADDRESS:

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MAILING ADDRESS:

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

CERTIFIED MAIL

February 22, 2008

Re: Director's Final Findings & Orders
GE Lighting, Inc.
US EPA ID No.: OHD 066 052 804

Mr. John Fish
Vice President Manufacturing
GE Lighting, Inc.
1210 North Park Avenue
Warren, Ohio 44483

Dear Mr. Fish:

Here are the Director's Final Findings and Orders (Orders) issued to GE Lighting, Inc. on February 22, 2008. These Orders are effective today.

I have also enclosed an invoice for the penalty payment as required by Order No. 1.a and 1.b. Please remember that your payments are due no later than March 24, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Natalie Oryshkewych at (330) 963-1267.

Sincerely,

David A. Sholtis
Assistant Chief
Division of Hazardous Waste Management

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Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Elissa Miller, Legal
Heidi Greismer, PIC
Natalie Oryshkewych, Mgr., DHWM, NEDO
Bonnie Harrington, Esq., Senior Counsel, Environment, Health & Safety

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: _____ Date: 2-22-08

OHIO E.P.A.

FEB 22 2008

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

GE Lighting, Inc.
1210 N Park Ave
Warren, Ohio 44483

Respondent

Director's Final Findings and Orders

PREAMBLE

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

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent successors in interest liable under Ohio law. No change in ownership relating to the Facility shall in any way alter Respondent's obligations under these Orders.

III. DEFINITIONS

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

IV. FINDINGS

The director of Ohio EPA has determined the following findings of fact:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative

Code (OAC) rule 3745-50-10(A).

2. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD 066 052 804.

3. At the 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 light bulb (lamp) assembly plant primarily for household products. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility include chrome press filter change out (D007), acid waste piping from silvering (D002, D007, D011), spent blaster media used to remove deposited silver (D007, D011), chrome sludge (D007) from wastewater treatment system operations, solvent waste from spent getter (D001), bottles and rags from the getter process (D001), spent waste alcohol (D001, F003, F005), chrome and press filter change out (D007, D011), wastewater treatment system tank cleaning sludge (D002, D007, D011), and paint debris (D001, D005 and D007).

4. On October 26 and 30, 2006, Ohio EPA conducted compliance evaluation inspections at the Facility. As a result of these inspections, Ohio EPA determined the Respondent had *inter alia*:

   a. Stored hazardous waste greater than 90 days without a permit, in violation of ORC § 3734.02 (E) and (F). During the October 30, 2006 inspection, Respondent was able to demonstrate the container had been shipped off site on October 27, 2006;

   b. Failed to evaluate waste to determine if the waste was a hazardous waste, in violation of OAC rule 3745-52-11. During the October 30, 2006 inspection, Respondent was able demonstrate the waste could be managed as a scrap metal, abating the violation;

   c. Failed to have the required emergency equipment in the sludge accumulation area, in violation of OAC rule 3745-65-32(C). During the October 30, 2006 inspection, Respondent was able to demonstrate this violation had been abated;

   d. Failed to conduct inspections of emergency equipment and the hazardous waste sludge accumulation area, in violation of OAC rule 3745-65-33 and OAC 3745-66-74;

   e. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;

   f. Failed to label satellite containers of hazardous waste with either the words

"hazardous waste" or with other words that identify the contents of the containers, in violation of OAC rule 3745-52-34(C)(1)(b). During the October 30, 2006 inspection, Respondent was able to demonstrate this violation had been abated;

g. Failed to label and date containers of hazardous waste, in violation of OAC rules 3745-52-34(A)(2) and (3). During the October 30, 2006 inspection, Respondent was able to demonstrate the containers had been labeled and/or shipped off-site, abating the violation.

h. Failed to clearly label containers with the words "used oil," in violation of OAC rule 3745-279-22(C)(1). During the October 30, 2006 inspection, Respondent was able to demonstrate the containers had been labeled, abating this violation;

i. Failed to have a list of employees managing hazardous waste and failed to have the requisite skills, education or other qualifications listed in the job descriptions, in violation of OAC rule 3745-65-16(D)(1) and (2);

j. Failed to include a list of all emergency equipment including: location, physical description and brief outline of capabilities in the contingency plan, in violation of OAC 3745-65-52(E);

k. Failed to package universal waste lamps appropriately, in violation of OAC rule 3745-273-13(D)(1). During the October 30, 2006 inspection, Respondent was able to demonstrate the lamps had been shipped off site on October 27, 2006, and that the new containers were in compliance with the rule, abating this violation;

l. Failed to label the containers of universal waste lamps with the words "Universal Waste - Lamps," "Waste Lamp(s)", or "Used Lamp(s)," in violation of OAC rule 3745-273-14(E). During the October 30, 2006 inspection, Respondent was able to demonstrate the lamps had been shipped off site on October 27, 2006, and that the new containers were in compliance with this rule, abating this violation;

m. Accumulated universal waste batteries on site in excess of one year, in violation of OAC rule 3745-273-15(A). During the October 30, 2006 inspection, Respondent was able to demonstrate the batteries had been shipped off site on October 27, 2006, abating this violation;

n. Failed to be able to demonstrate the length of time universal waste is accumulated on site, in violation of OAC rule 3745-273-15(C). During the

October 30, 2006 inspection, Respondent was able to demonstrate the containers on site are being marked with an accumulation date, abating this violation; and

o. Failed to maintain all necessary land disposal restriction (LDR) forms on site, in violation of OAC rule 3745-270-07(A)(8).

5. By facsimiles dated November 1 and November 28, 2006 and by emails dated November 17 and November 21, 2006, Respondent submitted information to Ohio EPA to abate several of the violations referenced in Finding No. 4 of these Orders.

6. By letter dated December 5, 2006, Ohio EPA notified Respondent of the violations referenced in Finding No. 4 of these Orders. In this letter, Ohio EPA also notified Respondent that due to the unlawful storage of hazardous waste, Respondent was subject to all applicable general facility standards found in OAC chapters 3745-54 and 3745-55. In addition, Ohio EPA notified Respondent that the violation referenced in Finding No. 4.e. had been abated.

7. By letter dated January 5, 2007, Respondent submitted responses to Ohio EPA's December 5, 2006 letter.

8. By letter dated January 17, 2007, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 4.d., 4.i., 4.j., and 4.o. of these Orders had been abated.

9. Because Ohio EPA did not observe any releases of hazardous waste at the time of the inspections referenced in Finding No. 4 of these Orders, the Director has determined that closure of this area is not required at this time. Therefore, no further action is required at this time to abate the violation referenced in Finding No. 4.a. of these Orders.

10. On November 19, 2007, Respondent submitted to Ohio EPA information entitled "Ohio Lamp Chrome Reduction/Elimination Project." This information summarized a project to reduce/eliminate the hazardous waste chromium wastewater treatment sludge generated at the Facility. In this information, Respondent also requested that it receive supplemental environmental project (SEP) credit toward the civil penalty settlement for implementation of the Chrome Reduction/Elimination Project.

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 $7,280.00 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 $4,655.00 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 $4,655.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

   b. In lieu of paying the $1,460.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $1,460.00 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 $1,460.00. 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. of these Orders, Respondent shall pay to Ohio EPA within 7 days of failing to comply with Order No. 1.b. the amount of $1,460.00 in accordance with the procedures in Order No. 1.a.

   d. In lieu of payment of the remaining $1,165.00 of the civil penalty settlement, Respondent shall implement the Ohio Lamp Chrome Reduction/Elimination Project SEP referenced in Finding No. 10. of these Orders. As part of the implementation of the Ohio Lamp Chrome Reduction/Elimination Project SEP, Respondent shall take two samples of the wastewater treatment sludge each week for a

period of six consecutive weeks commencing the week of November 19, 2007. Respondent shall take two samples of the wastewater treatment sludge each week for a period of four additional weeks commencing the week of January 28, 2008. All sample results and supporting documentation shall be submitted to Ohio EPA for review and approval within 14 days after receipt of the results from the final sampling event. The sample results and supporting documentation shall demonstrate that the wastewater treatment sludge is not a characteristic hazardous waste.

e. Should Respondent fail to conduct the sampling as described in Order No. 1.d. or should any of the samples of the wastewater treatment sludge demonstrate that the wastewater treatment sludge is a characteristic hazardous waste, Respondent shall pay to Ohio EPA the amount of $1,165.00 within 7 days of failing to conduct the sampling as described in Order No.1.d. or within 14 days of receiving a sample result demonstrating that the wastewater treatment sludge is a characteristic hazardous waste. Payment shall be made in accordance with the procedures established in Order No. 1.a. of these Orders. A copy of each check shall be submitted in accordance with Section X. of these Orders.

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 Hazardous 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
Northeast District Office
Division of Hazardous Waste Management
2110 East 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 as well as 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 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 hazardous waste units and corrective action at the Facility, 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

FEB 2 2 2008
Date

IT IS SO AGREED:

GE Lighting, Inc.

Signature

2/04/08
Date

JOHN FISH
Printed or Typed Name

VP MFG
Title