



State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

Lazarus Government Center  
122 S. Front Street  
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184  
www.epa.state.oh.us

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

**CERTIFIED MAIL**

November 8, 2006

**Re: Director's Final Findings & Orders  
Coca-Cola Enterprises, Inc. dba  
Cincinnati Coca-Cola Bottling Co.  
US EPA ID No. OHD 004 248 670**

Mr. Mason K. Hogan  
Director of Manufacturing  
Coca-Cola Enterprises, Inc. dba  
Cincinnati Coca-Cola Bottling Co.  
5100 Duck Creek Road  
Cincinnati, Ohio 45227

Dear Mr. Hogan:

Here are the Director's Final Findings and Orders (Orders) issued to Coca-Cola Enterprises, Inc. dba Cincinnati Coca-Cola Bottling Co. on November 8, 2006. These Orders are effective today.

I have also enclosed an invoice for the penalty payment as required by Order No. 1. Please remember that your payment is due no later than December 8, 2006.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Don Marshall at (937) 285-6357.

Sincerely,

Pamela S. Allen, Manager  
Regulatory and Information Services  
Division of Hazardous Waste Management

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**Attachments**

cc: Michael A. Savage, Chief, DHWM  
Harry Sarvis, Mgr., CAS, DHWM  
Todd Anderson, Legal  
Heidi Greismer, PIC  
Don Marshall, Mgr., DHWM, SWDO  
David M. Bullock, Miller & Martin PLLC

Bob Taft, Governor

Bruce Johnson, Lieutenant Governor

Joseph P. Koncelik, Director



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NOV - 8 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Coca-Cola Enterprises Inc. dba  
Cincinnati Coca-Cola Bottling Co.  
5100 Duck Creek Road  
Cincinnati, Ohio 45227

Director's Final  
Findings and Orders

Respondent

This is 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: 11-8-06

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Coca-Cola Enterprises Inc. dba Cincinnati Coca-Cola Bottling Co. (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 the 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 thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates a business located at 5100 Duck Creek Road, Cincinnati, Hamilton County, Ohio (Facility).

2. Respondent is a "person" as defined in ORC § 3734.01(G) and OAC rule 3745-50-10(A).
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 identified as a small quantity generator of hazardous waste.
4. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004248670.
5. On October 28, 2005, Respondent transported or caused to be transported one container of waste to Vexor Technology, Inc. located at 955 West Smith Road, Medina, Ohio. (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.
6. Once received by Vexor, Vexor analyzed the container of waste for the hazardous waste characteristics of flashpoint and corrosivity only. Based upon Vexor's analysis, the waste was found to exhibit the hazardous waste characteristic of ignitability (D001).
7. On November 2, 2005, Vexor shipped the container of hazardous waste to Chemtron Corporation, a facility operating under a hazardous waste facility installation and operation permit.
8. Because Respondent transported or caused to be transported the container of hazardous waste to Vexor, a facility not operating under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734., the Director has determined that Respondent violated ORC § 3734.02(F).
9. ~~Because the container of hazardous waste was transported from Vexor to Chemtron Corporation, the Director has determined that no further action is required of Respondent to abate the violation of ORC § 3734.02(F) as referenced in Finding No. 8. 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. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$4,400.00 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 \$4,400.00. 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 Respondent. A copy of this check shall be submitted in accordance with Section X. of these Orders.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official check 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  
Southwest District Office  
Division of Hazardous Waste Management  
401 East Fifth Street  
Dayton, Ohio 45402-2911  
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Joseph P. Koncelik, 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:

Joseph P. Koncelik, Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
122 South Front Street  
Columbus, Ohio 43215  
Attn: Manager, Compliance Assurance Section

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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**

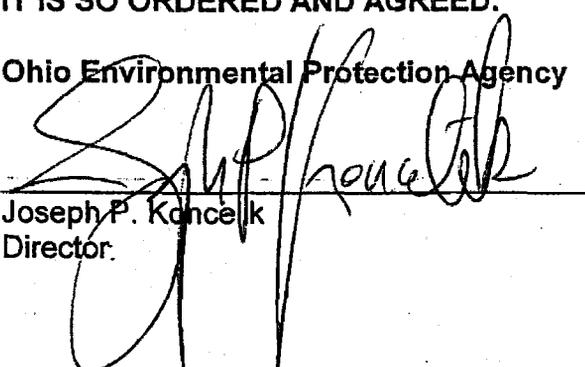
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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

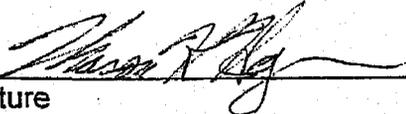
  
\_\_\_\_\_  
Joseph P. Koncek  
Director.

**NOV 08 2006**  
\_\_\_\_\_  
Date

Director's Final Findings and Orders  
Coca-Cola Enterprises Inc. dba  
Cincinnati Coca-Cola Bottling Co.  
Page 6 of 6

IT IS SO AGREED:

Coca-Cola Enterprises Inc. dba Cincinnati Coca-Cola Bottling Co.

  
\_\_\_\_\_  
Signature

10/24/06  
\_\_\_\_\_  
Date

MASON K. HOGAN  
\_\_\_\_\_  
Printed or Typed Name

DIRECTOR OF MANUFACTURING  
\_\_\_\_\_  
Title