

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Republic Services of Ohio II, LLC
dba Countywide Recycling and
Disposal Facility
110 S.E. 6th Street
Ft. Lauderdale, Florida 33301

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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 Republic Services of Ohio II, LLC dba Countywide Recycling and Disposal Facility ("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 (as hereinafter 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 3734. and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Countywide Recycling and Disposal Facility (the "Facility") is located at 3619 Gracemont Street S.W., East Sparta, Stark County, Ohio.
2. Respondent is the "owner" and the "operator" of the Facility as those terms are

defined in Ohio Administrative Code ("OAC") Rule 3745-27-01(O)(7) and (O)(5), respectively, and is also the license holder for the Facility.

3. The Facility is a "sanitary landfill facility" as that term is defined under OAC Rule 3745-27-01(S)(4) and is authorized to accept "solid waste" as that term is defined under ORC Section 3734.01(E) and OAC Rule 3745-27-01(S)(24).
4. Respondent is a "person" as that term is defined in ORC Section 3734.01(G) and in OAC Rule 3745-27-01(P)(3).
5. In accordance with OAC Rule 3745-27-19(E)(8)(c), "[t]he owner or operator shall not accept for disposal or dispose of materials that are defined as hazardous wastes pursuant to rule 3745-51-03 of the Administrative Code at a sanitary landfill facility."
6. On November 16, 2004, the Facility was notified that a rolloff box that contained a 1,500 pound piece of lead from American Spring Wire Corp. was transported and disposed of at the Facility.
7. On November 17, 2004, Respondent notified the Stark County Health District and Ohio EPA, Northeast District Office of the notification it received from American Spring Wire Corp. Respondent followed up the 24-hour telephone notification by letter, as required by the Facility's PCB and Hazardous Waste Detection Program.
8. Pursuant to OAC Rule 3745-51-21, lead is considered a characteristic hazardous waste.
9. In correspondence dated November 22, 2004, Ohio EPA, Division of Hazardous Waste Management, Northeast District Office cited American Spring Wire Corp. in violation of ORC Section 3734.02(F) for illegal transport of hazardous waste.
10. In correspondence dated May 5, 2005, the Stark County Health Department cited Respondent in violation of OAC Rule 3745-27-19(E)(8) and ORC Section 3734.02(F) for disposing of hazardous waste in a sanitary landfill facility.
11. In a response letter dated May 31, 2005, Respondent stated that it took significant measures to locate and remove the lead from the Facility, but did not find the lead. Respondent also stated that it excavated approximately 7,300 tons of waste in its search for the lead.
12. Ohio EPA, Division of Solid and Infectious Waste Management, Northeast District Office also notified Respondent of a violation of OAC Rule 3745-27-19(E)(8) and ORC Section 3734.02(F) for accepting for disposal and for disposing of hazardous waste in a sanitary landfill facility.

13. To date, the hazardous waste has not been removed and violations of ORC Chapter 3734. and OAC Rule 3745-27-19(E)(8) remain.

V. ORDERS

Respondent shall achieve compliance with ORC Chapter 3734. and the rules promulgated thereunder according to the following compliance schedule:

1. Within thirty (30) days after the effective date of these Orders, Respondent shall evaluate and revise, as necessary, the Facility's PCB and hazardous waste prevention and detection program, which is required by OAC Rule 3745-27-19(L), so as to prevent future occurrences of illegal hazardous waste acceptance at the Facility.
2. Within forty-five (45) days after the effective date of these Orders, Respondent shall submit the Facility's revised PCB and hazardous waste prevention and detection program to Ohio EPA for comment, and within fourteen days after receipt of OhioEPA's comments, Respondent shall address Ohio EPA's comments and place the revised document into the operating record.
3. Respondent shall pay to Ohio EPA the amount of \$16,470.00 in settlement of Ohio EPA's claims for civil penalties for violations of the State of Ohio's solid waste laws, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$13,176.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the environmental protection remediation fund established pursuant to ORC Section 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$13,176.00. The 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 the Respondent and the facility. A copy of the letter and check shall be sent to Ohio EPA, DSIWM, Supervisor, Systems Management Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.
 - b. In lieu of paying the remaining \$3,294.00 of the civil penalty, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$3,294.00 to the Ohio EPA Clean Diesel School Bus Program. Respondent shall make the payment within thirty (30) days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$3,294.00. The official check shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio

43216-1049, together with a letter identifying Respondent and the facility. A copy of the check shall be submitted 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 fully fund the SEP within the required time frame established in Order No. 3.b. of these Orders, Respondent shall pay to Ohio EPA the amount of \$3,294.00 in accordance with the procedures and time frames established in Order No. 3.a. 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 the Chief of Ohio EPA's Division of Solid and Infectious 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 principal executive officer of at least one level of vice president or his duly authorized representative, if such a representative is responsible for the overall operation of the Facility.

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 Solid and Infectious Waste Management
2110 East Aurora Road
Twinsburg, Ohio 44087
Attn: Unit supervisor, DSIWM

and to:

Stark County Health Department
3951 Convenience Circle, N.W.
Canton, Ohio 44718-2660
Attn: Health Commissioner

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. Koncelik
Director

IT IS SO AGREED:

Republic Services of Ohio II, LLC

Signature

Date

Printed or Typed Name

Title