

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter Of:

Republic Services of Ohio II, LLC	:	<u>Director's Final Findings</u>
dba Countywide Recycling and	:	<u>and Orders</u>
Disposal Facility	:	
110 S.E. 6 th Street	:	
Ft. Lauderdale, FL 33301	:	

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") Sections 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent and its successors in interest liable under Ohio law. No change in ownership of 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 ("Facility") is located at 3619 Gracemont Street SE, 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(B)(1), "[t]he owner or operator shall conduct all operations at a sanitary landfill facility in strict compliance with the terms and conditions of the solid waste disposal license issued for the facility in accordance with Chapter 3745-37 of the Administrative Code."
6. In accordance with OAC Rule 3745-27-19(B)(2), "[t]he owner or operator shall conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing document(s), including permit(s) to install, a plan approval, an operational report, an approved closure plan, an alteration(s) concurred with in writing by Ohio EPA, or any authorizing final document(s) listed in paragraph (I) of rule 3745-27-09 of the Administrative Code...".
7. In accordance with OAC Rule 3745-27-19(E)(8)(c), the owner or operator shall not accept for disposal or dispose of "[m]aterials that are defined as hazardous wastes pursuant to rule 3745-51-03 of the Administrative Code" at a sanitary landfill facility.
8. In accordance with OAC Rule 3745-27-19(L), "...the owner or operator shall implement a written program at the sanitary landfill facility with procedures that are sufficient to detect and prevent the disposal of regulated hazardous wastes as defined in rule 3745-51-03 of the Administrative Code and polychlorinated biphenyls (PCB) wastes as defined in 40 CFR Part 761, July 1, 2003. The owner or operator shall place the PCB and hazardous waste prevention and detection program, inspection records, generator certifications, waste screening information, and notifications required by this rule into the operating record in accordance with rule 3745-27-09 of the Administrative Code."
9. Since approximately 2000 the Facility has accepted non-hazardous bag-house dust generated by Republic Engineered Products ("Republic").
10. Respondent considers the bag-house dust to be a "special waste" and thus requires that Republic certify that the waste is not hazardous annually. The annual certification includes re-testing of the bag-house dust to ensure it is not a hazardous waste.

11. On April 7, 2006, Republic conducted its annual renewal sampling of the bag-house dust and sent the samples to a laboratory for analysis. Following the collection of the bag-house dust samples, a roll-off box containing the remainder of the bag-house dust waste was picked up by R&R Sanitation, Inc. and transported to the Facility for disposal on April 10, 2006.
12. On April 18, 2006, the analytical results of the samples were received by Republic. The results indicated that the bag-house dust waste was a characteristic hazardous waste due to a lead concentration of 95.7 mg/l and a chromium concentration of 8.8 mg/l. The regulatory limit for both lead and chromium is 5 mg/l.
13. On May 2, 2006, Respondent met with Ohio EPA to notify it that hazardous waste was accepted for disposal at the Facility on April 10, 2006.
14. As a follow up to the initial verbal notification of May 2, 2006, Respondent informed Ohio EPA via written correspondence dated May 9, 2006, of the Facility's acceptance and disposal of hazardous waste on April 10, 2006. Additionally, Respondent indicated the following:
 - a. No bag-house dust had been accepted at the Facility since April 18, 2006;
 - b. Republic had commissioned additional sampling and analysis, re-testing, additional evaluation of the results, and additional evaluation of the laboratory procedures because Republic felt that the original results were inconsistent with its knowledge of the process and historical analytical results of the waste stream;
 - c. The additional sampling confirmed that the bag-house dust waste was hazardous and Republic subsequently informed Respondent on May 2, 2006, that the material sent to its Facility on April 10, 2006, was a hazardous waste.
15. In correspondence dated May 17, 2006, Ohio EPA sent a Notice of Violation to Respondent notifying it of the following violations:
 - a. OAC Rule 3745-27-19(B)(1) for failure to conduct all operations at a sanitary landfill facility in strict compliance with the terms and conditions of the Facility's solid waste disposal license;
 - b. OAC Rule 3745-27-19(B)(2) for failure to conduct all construction and operation at a sanitary landfill facility in strict compliance with the applicable authorizing documents;

- c. OAC Rule 3745-27-19(E)(8)(c) and ORC Rule 3734.02(F) for acceptance of hazardous waste for disposal; and
 - d. OAC Rule 3745-27-19(L) for failure to implement a written program at the sanitary landfill facility with procedures that are sufficient to detect and prevent the disposal of regulated hazardous wastes.
16. To date, the hazardous waste has not been removed and violations of ORC Chapter 3734. and OAC Rule 3745-27-19 remain. Further, Respondent has indicated that it is not able to locate and remove the hazardous waste.

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, 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. At a minimum, the revisions shall include the language outlined in Attachment I.
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 any of Ohio EPA's comments, Respondent shall address Ohio EPA's comments and place the revised document into the operating record.
3. Within thirty (30) days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of eight thousand two hundred twenty-eight dollars (\$8,228.00) 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 eight thousand two hundred twenty-eight dollars (\$8,228.00). 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.

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 Enforcement Coordinator 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 the 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, 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 or the Facility.

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
Attn: Unit Supervisor, DSIWM
2110 East Aurora Road
Twinsburg, Ohio 44087

and

Stark County Health Department
3951 Convenience Circle, N.W.
Canton, Ohio 44718

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 the 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:

Joseph P. Koncelik, Director

COPY

IT IS SO AGREED:

Republic Services of Ohio II, LLC

Signature

Date

Title

Attachment I

Special Waste Approval - Renewals

For special wastes that are received at the facility on an on-going basis, a renewal certification will be required at various intervals to confirm that the special waste continues to meet disposal requirements.

The frequency of the renewal certification will depend on several factors. The Special Waste Manager shall consider the criteria enumerated below in determining how often a special waste must be re-tested or re-certified. The following criteria shall be considered for on-going special wastes received at Countywide Landfill:

- * Variability (potential or historical) in analytical data
- * Potential for variability in the process generating the special waste
- * Potential for variability in special waste material
- * Customer knowledge/information
- * Past experience with special waste

Based on the above, the Special Waste Manager shall use his/her experience in applying the criteria above to determine how often a particular special waste must be recertified. At a minimum, all special wastes must be recertified at least once every three years. Special wastes exhibiting variability in process or analytical data will be evaluated more frequently.

Customer information regarding a change in process that is expected to change the nature of the special waste shall be confirmed through analytical results immediately and prior to accepting additional waste from that customer. The Special Waste Manager shall use his/her discretion to determine when more frequent than minimum recertification is necessary, up to and including requiring analytical data for each load of special waste accepted.