

OHIO E.P.A.
DEC 11 2006

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

American Steel Associated Products, Inc.
2375 Dorr Street
Suite F
Toledo, Ohio 45303

**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 American Steel Associated Products, Inc. (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 Respondent or 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:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates a steel container manufacturing facility located at 2375 Dorr Street, Suite F, Toledo, Lucas County, Ohio (Facility). Respondent became incorporated in Ohio on September 18, 1995.
3. The Facility was issued Ohio EPA identification number OHD 097232946 on October 6, 1981.
4. At the Facility, Respondent generated "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03.
5. On December 13, 2002, Ohio EPA conducted a complaint investigation of the Facility. As a result of this investigation, Ohio EPA determined that Respondent had failed to evaluate over 170 drums of waste generated and stored at the Facility, in violation of OAC rule 3745-52-11.
6. By letter dated December 20, 2002, Ohio EPA notified Respondent of the violation referenced in Finding No. 5 and directed Respondent to evaluate the waste referenced in Finding No. 5 and to provide the analytical data to Ohio EPA.
7. By letter dated June 6, 2003, Respondent submitted a sampling and analysis plan (SAP) for the waste contained in the drums at the Facility identified in Finding No. 5.
8. By letter dated August 6, 2003, Ohio EPA approved the SAP identified in Finding No. 7.
9. On September 2 and 3, 2003, Respondent conducted a sampling event at the Facility.
10. On February 16, 2004, Respondent manifested the hazardous waste off site for disposal as a result of the September 2 and 3, 2003 sampling event.
11. By letter dated September 9, 2004, Ohio EPA informed Respondent that based on the analytical data from the sampling event Ohio EPA determined that Respondent had stored 330 gallons of hazardous waste at the Facility for greater than 180 days without a permit, in violation of ORC § 3734.02(E) and (F). In addition, Ohio EPA notified Respondent that the violation referenced in Finding No. 5. had been abated.

12. Based on the December 13, 2002 investigation and the sampling event identified in Finding No. 9, Ohio EPA has further determined Respondent had:
 - a. Failed to properly label and date the hazardous waste storage containers, in violation of OAC rule 3745-52-34(A) and (C);
 - b. Failed to maintain closed hazardous waste containers except when necessary to add or remove waste, in violation of OAC rule 3745-66-73(A); and
 - c. Failed to conduct and record inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74.
13. The Director has determined that no further action is required in regard to the violations referenced in Finding No. 12 since all of the hazardous waste at the Facility was properly shipped off site as stated in Finding No. 10.
14. By letter dated May 10, 2005, Respondent submitted to Ohio EPA a Sampling and Analysis Plan (SAP) to determine whether contamination resulted from the unpermitted storage of hazardous waste at the Facility, as reference in Finding No. 11.
15. By letter dated July 8, 2005, Ohio EPA provided comments on Respondent's SAP.
16. In correspondence dated September 15, 2005, Respondent submitted a revised SAP that incorporated some of Ohio EPA's comments.
17. By letter dated October 21, 2005, Ohio EPA provided additional comments on Respondent's SAP.
18. In correspondence dated March 10, 2006, Respondent submitted a revised SAP that incorporated Ohio EPA's additional comments.
19. By letter dated April 18, 2006, Ohio EPA approved Respondent's revised SAP with modifications.
20. On May 23, 2006, Respondent implemented the revised SAP; referenced in Finding No. 19. In correspondence dated July 27, 2006, Respondent provided a SAP Report containing the analytical results generated by the implementation of the approved SAP.

21. Based upon the results of the implementation of the approved SAP, the Director has determined that no additional action is required of Respondent regarding the ORC § 3734.02(E) and (F), referenced in Finding No. 11. In addition, the Director has determined that it is unnecessary to reserve closure for the area where hazardous waste was stored without a permit.

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 \$25,000.00 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 \$20,000.00 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 \$20,000.00. 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 remaining \$5,000.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplement environmental project (SEP) by making a contribution in the amount of \$5,000.00 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 \$5,000.00. 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 \$5,000.00 in accordance with the procedures in Order No. 1.a.

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
Northwest District Office
Division of Hazardous Waste Management
347 North Dunbridge Road
Bowling Green, Ohio 43402-9398
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

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 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 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 right to seek corrective action at the Facility by Respondent, which right 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

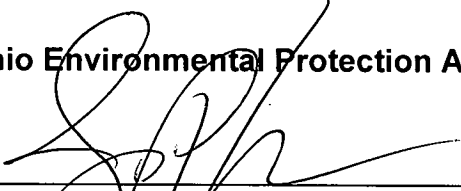
The effective date of these Orders is the date these Orders are entered into Ohio EPA Director's journal.

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

DEC 11 2006
Date

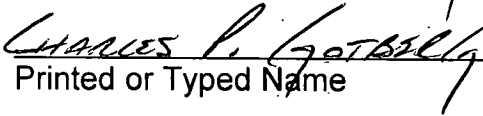
IT IS SO AGREED:

American Steel Associated Products, Inc.



Signature

11-14-06
Date



Printed or Typed Name



Title