

OHIO E.P.A.

SEP 28 2005

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

P & J Industries, Inc.
4934 Lewis Ave.
Toledo, Ohio 43612

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Director's Final Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to P & J Industries, Inc. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("O.R.C.") §§ 3745.01 and 3751.09.

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 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 O.R.C. Chapter 3751 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates an industrial plating operation, specializing in nickel and zinc-nickel plating of automotive fluid delivery components such as brake and power steering tubing.

2. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within a covered Standard Industrial Classification ("SIC") code, has 10 or more full-time employees, and manufactures, processes, and/or uses a toxic chemical listed in OAC rule 3745-100-10 in excess of the applicable threshold, must file a TRI report with the Ohio EPA and U.S. EPA on or before July 1 of the following year.
3. Respondent's facility is classified within a covered Standard Industrial Classification code, specifically SIC 3471, electroplating, plating, polishing, anodizing and coloring.
4. Respondent reported employment of 151 employees in 2001, 159 employees in 2002, and 143 employees in 2003 at the Toledo facility.
5. Nickel compounds, U.S. EPA Chemical Category N495, and sodium dimethyldithiocarbamate (CAS 128-04-1) are listed toxic chemical categories and chemicals in OAC rule 3745-100-10.
6. Respondent reported processing 79,936 pounds of nickel compounds in calendar year 2001, 54,299 pounds of nickel compounds in calendar year 2002, and 63,662 pounds of nickel compounds in calendar year 2003. Respondent reported otherwise using 13,070 pounds of sodium dimethyldithiocarbamate in calendar year 2001 and 12,504 pounds of sodium dimethyldithiocarbamate in calendar year 2003.
7. On November 23, 2004, Ohio EPA inspected Respondent's facility and reviewed TRI records keeping and reporting requirements.
8. Information provided by Respondent at the inspection and by way of December 20, 2004 correspondence, demonstrated that the facility had violated the toxic chemical reporting requirements contained in OAC rule 3745-100-07 and O.R.C. § 3751.07.
9. Respondent failed to submit TRI reports for calendar years 2001, 2002 and 2003 to Ohio EPA on or before July 1, 2002, July 1, 2003 and July 1, 2004, respectively, in violation of OAC rule 3745-100-07 and O.R.C. § 3751.07. Respondent also failed to pay the filing fees as required by OAC rule 3745-100-12, in violation of that rule and O.R.C. § 3751.07. (Respondent submitted delinquent reports and fees, dated December 22, 2004, under cover letter dated December 20, 2004.)
10. Respondent failed to submit TRI reports for calendar years 2001, 2002 and 2003 to U.S. EPA on or before July 1, 2002, July 1, 2003, and July 1, 2004, respectively.

11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Pursuant to O.R.C. § 3751.10, Respondent is assessed a civil penalty in the amount of ten thousand dollars (\$10,000) in settlement of Ohio EPA's claims for civil penalties. Eight thousand dollars (\$8,000) of this amount shall be paid to Ohio EPA pursuant to the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000);
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000);
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000); and
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of two thousand dollars (\$2,000).

Payment shall be made by official checks made payable to "Treasurer, State of Ohio" in the above stated amounts. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

Ohio EPA
Office of Fiscal Administration
P.O. Box 1049
Columbus, Ohio 43216-1049

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

2. In lieu of paying the remaining two thousand dollars (\$2,000) in Ohio EPA's claims for civil penalties, assessed pursuant to O.R.C. § 3751.10, Respondent shall fund a supplemental environmental project (SEP) by making a contribution totaling two thousand dollars (\$2,000) to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
 - a. Within 90 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of five hundred dollars (\$500);
 - b. Within 180 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of five hundred dollars (\$500);
 - c. Within 270 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of five hundred dollars (\$500); and
 - d. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of five hundred dollars (\$500).

Payment shall be made by official checks made payable to "Treasurer, State of Ohio" in the above stated amounts. The official checks shall be submitted to Brenda Case, or her successor, together with a letter identifying Respondent, to:

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

A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.d., Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. A copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the total payment 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 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

Copies of all documents required to be submitted by Respondent pursuant to these Orders shall be provided and addressed to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: James A. Orlemann, Assistant Chief, SIP
Development and Enforcement

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



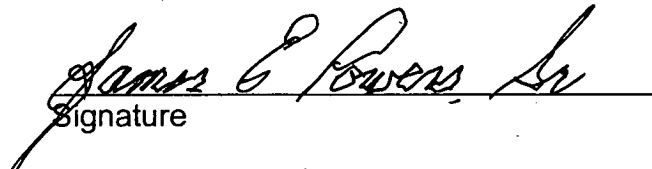
Joseph P. Koncelik
Director

SEP 28 2005

Date

IT IS SO AGREED:

P & J Industries, Inc.



Signature

09/12/2005

Date

James E. Powers, Sr.

Printed or Typed Name

Vice President/Secretary

Title