

OHIO E.P.A.

JAN 21 2004

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Prince Plating, Inc.
1530 East 40th Street
Cleveland, Ohio 44103

Respondent

**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 Prince Plating, 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 the Respondent, or of the Facility owned by 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 ORC Chapter 3734. and the rules 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 owns and operates a decorative nickel and chrome plating facility located at 1530 East 40th Street, Cleveland, Cuyahoga County, Ohio (Facility). Respondent was incorporated to do business in the State of Ohio on August 20, 2001.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004165429.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined in ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity hazardous waste generator. The hazardous wastes generated by Respondent at the Facility include electroplating wastewater treatment sludge (F006) and a chrome plating bath (D002, D007).
5. On November 5, 2002, Ohio EPA conducted an inspection at the Facility, and discovered that Respondent, inter alia:
 - a. Stored at least 16 drums of F006 hazardous waste and two drums of D002 hazardous waste at the Facility for greater than 90 days without an approved hazardous waste storage permit, in violation of ORC §§ 3734.02(E) and (F);
 - b. Had at least 56 open drums containing F006 hazardous waste stored without adequate aisle space, in violation of OAC rules 3745-66-73(A) and 3745-65-35, respectively. In addition, Respondent allowed F006 hazardous waste from these drums to accumulate on the floor inside the Facility, in violation of OAC rule 3745-65-31;
 - c. Failed to properly label a drum of D007 hazardous waste spent chrome plating solution with the words "Hazardous Waste" and an accumulation start date, in violation of OAC rules 3745-52-34(A)(3) and 3745-52-34(A)(2), respectively;
 - d. Failed to inspect the Facility's hazardous waste accumulation area, failed to have an emergency communication device immediately available, and failed to inspect emergency equipment associated with

the Facility's hazardous waste accumulation area, in violation of OAC rules 3745-66-74, 3745-65-32, and 3745-65-33, respectively;

- e. Could not produce a copy of hazardous waste manifest No. 42893, in violation of OAC rule 3745-52-40(A), and could not produce several land disposal restriction documents, in violation of OAC rule 3745-270-07(A);
- f. Failed to have an adequate hazardous waste contingency plan, in violation of OAC rule 3745-65-52; and
- g. Failed to adequately train personnel responsible for handling hazardous waste at the Facility, in violation of OAC rule 3745-65-16.

By letter dated November 22, 2002, Ohio EPA notified Respondent of the results of this inspection.

- 6. By letter dated December 9, 2002, Respondent replied to Ohio EPA's November 22, 2002 letter. In that letter, Respondent submitted documentation to Ohio EPA demonstrating that the hazardous waste referenced in Finding No. 5.a. had been transported off-site to an authorized hazardous waste facility.
- 7. By letter dated January 13, 2003, Ohio EPA notified Respondent that it had abated those violations referenced in Finding Nos. 5.b., 5.c., and 5.d.
- 8. By letters dated February 5 and February 18, 2003, Respondent submitted additional documentation. By letter dated February 25, 2003, Ohio EPA notified Respondent that it had abated those violations referenced in Finding Nos. 5.e., 5.f., and 5.g.
- 9. No additional action is required of Respondent at this time regarding the ORC §§ 3734.02(E) and (F) violation referenced in Finding No. 5.a.

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 to Ohio EPA the amount of \$45,000.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed pursuant to ORC Chapter 3734. In lieu of payment of the \$45,000.00, Respondent shall implement supplemental environmental projects (SEP) as follows:

- a. Within 30 days after the effective date of these Orders, Respondent shall tender an official check in the amount of \$30,000.00 to the Cleveland Municipal School District, Attention: Treasurer, Cleveland Municipal School District, 1380 East Sixth Street, 400 South, Cleveland, Ohio 44115. The check shall be made payable to Cleveland Municipal School District, Account No. 007.8588.1820 and shall be accompanied by a letter identifying Respondent and the Facility.

Monies given to this program will allow the Cleveland Municipal School District to upgrade the district's school buses with emissions control technology. A copy of this check shall be submitted in accordance with Section X. of these Orders.

- b. In lieu of payment of \$15,000.00 of the civil penalty settlement, within 60 days after the effective date of these Orders, Respondent shall purchase and install an atmospheric evaporator that reduces the amount of chrome drag in Respondent's rinse process. Use of this evaporator will result in a significant reduction in the amount of F006 hazardous waste generated at the Facility. Within 30 days after purchasing the evaporator, Respondent shall submit to Ohio EPA a report demonstrating completion of implementation of the SEP, including documentation that Respondent paid at least \$30,000.00 for the evaporator. This report shall be submitted in accordance with Section X of these Orders.

2. Should Respondent fail to fully comply with Order No.1.b., Respondent shall pay to Ohio EPA the amount of \$15,000.00, 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 \$15,000.00. 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. Payment shall be due no later than seven days after the date the purchase and installation of the evaporator was required to be completed. 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 when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and Ohio EPA's Division of Hazardous 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 [e.g., corporate officer] who is in charge of a principal business function of Respondent.

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

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Division of Hazardous Waste Management
2110 Aurora Road
Twinsburg, Ohio 44087-1969
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Christopher Jones, 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:

Christopher Jones, 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 closure of hazardous waste units at the Facility, pursuant to ORC Chapter 3734. or any other applicable law in the future to address violations specifically cited in these Orders. 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 closure of hazardous waste units by Respondent for violations specifically cited in these Orders, 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

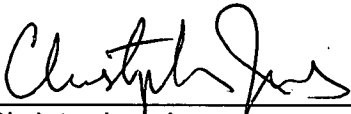
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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



Christopher Jones
Director

JAN 21 2004

Date

IT IS SO AGREED:

Prince Plating, Inc.


Signature

JANUARY 6, 2004
Date

JOHN A. RODZIK
Printed or Typed Name

CHIEF OPERATING OFFICER
Title