

OHIO E.P.A.

NOV 26 2003

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Park-Ohio Industries, Inc.
23000 Euclid Avenue
Cleveland, OH 44117

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 Park-Ohio Industries, 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, 3734.20, 3745.01 and 6111.03(H).

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 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. 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 steel forging facility located at 777 East 79th Street, Cleveland, Cuyahoga County, Ohio (Facility). At the Facility, Respondent forges steel into various parts.
3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD 000 810 127.
4. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent also generates "used oil" as that term is defined by ORC § 3734.01(FF) and OAC rules 3745-50-10(A) and 3745-279-01(A). Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes spent sulfuric pickling acid, waste paint, and spent aerosol cans.
5. On June 29, 2001 Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had:
 - a. Failed to properly evaluate waste materials, in violation of OAC rule 3745-52-11;
 - b. Failed to store used oil in containers and tanks which are in good condition and not leaking, and are labeled with the words "Used Oil," in violation of OAC rule 3745-279-22(B) and (C);
 - c. Failed to clean up and properly manage releases of used oil and other materials, in violation of OAC rule 3745-279-22(D); and
 - d. Failed to maintain a copy of the waste analysis data and notification form for shipments of characteristic hazardous waste, in violation of OAC rule 3745-270-07(A)(8).

By letter dated July 12, 2001, Ohio EPA notified Respondent of these violations.

6. Respondent submitted a written response to the cited violations in a letter dated August 9, 2001. By letter dated August 24, 2001, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 5.d.
7. In correspondence dated October 12, 2001, Respondent submitted a written response to the cited violations.
8. On October 26, 2001, Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined Respondent had:
 - a. Failed to properly evaluate waste materials, in violation of OAC rule 3745-52-11;
 - b. Failed to store used oil in containers and tanks which are in good condition and not leaking, and are labeled with the words "Used Oil," in violation of OAC rule 3745-279-22(B) and (C);
 - c. Failed to clean up and properly manage releases of used oil and other materials, in violation of OAC rule 3745-279-22(D);
 - d. Failed to develop and conduct a personnel training program, in violation of OAC rule 3745-65-16;
 - e. Failed to conduct weekly inspections of emergency equipment, in violation of OAC rule 3745-65-33;
 - f. Failed to develop and maintain a written contingency plan, in violation of OAC rule 3745-65-52 through OAC rule 3745-65-54;
 - g. Failed to obtain a written assessment for a hazardous waste storage tank system, in violation of OAC rule 3745-66-92;
 - h. Failed to provide secondary containment for a hazardous waste storage tank system, in violation of OAC rule 3745-66-93; and
 - i. Failed to conduct daily inspections of a hazardous waste storage tank system, in violation of OAC rule 3745-66-95.

By letter dated November 28, 2001, Ohio EPA notified Respondent of these violations.

9. In correspondence dated December 21, 2001, Respondent submitted a written response to the cited violations. By letter dated January 16, 2002, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.a., 8.a., 8.d., 8.e., 8.f., and 8.i.
10. In correspondence dated February 18, 2002, Respondent submitted a written response to the cited violations.
11. On May 31, 2002, Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined Respondent had:
 - a. Failed to store used oil in containers and tanks which are in good condition and not leaking, and are labeled with the words "Used Oil," in violation of OAC rule 3745-279-22(B) and (C); and
 - b. Failed to clean up and properly manage releases of used oil and other materials, in violation of OAC rule 3745-279-22(D).

By letter dated June 7, 2002, Ohio EPA notified Respondent of these violations. Also in the June 7, 2002 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 8.g. and 8.h.

12. In correspondence dated July 8, 2002, Respondent submitted a written response to the cited violations.
13. On August 7, 2002, Ohio EPA conducted a complaint investigation at the Facility to determine the validity of allegations concerning the disposal of metal pickling wastes, oil and grease onto or into the ground in the area known as the "die storage area." During this inspection, Ohio EPA observed an oily material on an exterior retaining wall of the "die storage area."
14. Also on August 7, 2002, Ohio EPA conducted an inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had:
 - a. Failed to store used oil in containers and tanks which are in good condition and not leaking, and are labeled with the words "Used Oil," in violation of OAC rule 3745-279-22(B) and (C);

- b. Failed to clean up and properly manage releases of used oil and other materials, in violation of OAC rule 3745-279-22(D); and
- c. Failed to keep a hazardous waste container closed when not adding or removing waste, in violation of OAC rule 3745-52-34(C).

By letter dated August 14, 2002, Ohio EPA notified Respondent of these violations.

- 15. In correspondence dated September 13, 2002, Respondent submitted a written response to the cited violations. The Director has determined that Respondent has abated the violation referenced in Finding No. 14.c.
- 16. The Director has determined that conditions at the Facility are causing or contributing or threatening to cause or contribute to water pollution or soil contamination.
- 17. Used oil constitutes "industrial wastes" or "other wastes" as defined under ORC § 6111.01(C) and (D). The ground water and surface water at or within the vicinity of the Facility are "waters of the state" as defined under ORC § 6111.01(H).
- 18. The work required by these Orders will contribute to the prohibition or abatement of the discharge of industrial wastes or other wastes into the waters of the state. In issuing these Orders, the Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economical reasonableness of complying with these Orders, and to evidence relating to conditions calculated to result from compliance with these Orders, and their relation to benefits to the people of the state to be derived from such compliance.

V. ORDERS

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

- 1. Within thirty (30) days after the effective date of these Orders, Respondent shall submit to Ohio EPA a used oil management plan (Plan) in accordance with OAC rule 3745-279-22. The Plan shall propose a strategy for assuring compliance with the used oil regulations, including procedures for properly

labeling used oil containers with the words "Used Oil," and specify activities for cleaning-up used oil that has been released at the Facility.

2. The Plan is subject to Ohio EPA review and approval. If Ohio EPA does not approve the Plan and provides Respondent with a written statement of deficiencies, the Respondent shall revise the Plan or submit a new Plan for approval that corrects the stated deficiencies within 30 days of receipt of such written notification. Ohio EPA may approve the Plan with modifications. If Ohio EPA modifies the Plan, the modified Plan becomes the approved Plan.

Upon Respondent's receipt of approval from Ohio EPA of the Plan, the Respondent shall implement the approved Plan in accordance with the terms, conditions and schedules contained therein. Completion of Order Nos. 1 and 2 will abate the violations referenced in Finding Nos. 5.b., 5.c., 8.b., 8.c., 11.a., 11.b., 14.a., and 14.b.

3. Within sixty (60) days after the effective date of these Orders, Respondent shall submit to Ohio EPA, for review and approval, a sampling and analysis plan (SAP) for sampling activities to determine the presence of contamination in the area referenced in Finding No. 13, pursuant to OAC rule 3745-52-11 and ORC § 6111.03(H).
4. The SAP is subject to Ohio EPA review and approval. If Ohio EPA does not approve the SAP and provides Respondent with a written statement of deficiencies, Respondent shall, within thirty (30) days after receipt of such written statement, revise the SAP or submit a new SAP to Ohio EPA addressing the deficiencies. Ohio EPA may approve the SAP with modifications. If Ohio EPA modifies the SAP, the modified SAP becomes the approved SAP, however before such time, Ohio EPA shall discuss the revisions with the Respondent. Upon Respondent's receipt of approval from Ohio EPA of the SAP, the Respondent shall implement the approved SAP in accordance with the terms, conditions and schedules contained therein.
5. Following receipt of the analytical results generated by the implementation of the approved SAP, Respondent shall, pursuant to the schedule in the approved SAP, submit to Ohio EPA a report (SAP Report) that includes the laboratory analysis and evaluation of data generated from implementing the approved SAP. Respondent shall certify, pursuant to OAC rule 3745-50-42(D), that the sampling and analysis was conducted in accordance with the approved SAP. The certification shall be signed by Respondent and shall be included in the SAP Report.

6. The SAP Report is subject to Ohio EPA review and approval. If Ohio EPA approves the SAP Report and it indicates that soil has been contaminated with non-hazardous solid waste, Respondent shall remove and lawfully dispose of the non-hazardous solid waste and contaminated soil to a licensed solid waste disposal facility.

If Ohio EPA approves the SAP Report and it indicates that soil has been contaminated with industrial waste, other waste, used oil, hazardous waste, and/or hazardous constituents above action levels identified in Ohio EPA's "Closure Plan Review Guidance" dated March 1, 1999 as supplemented, Respondent shall prepare a Remediation Plan.

7. The Remediation Plan shall be submitted to Ohio EPA within thirty (30) days after Ohio EPA's approval of the SAP Report. The Remediation Plan shall be based upon reasonable scientific data and methodology. The Remediation Plan shall propose methods of and a schedule for remediation of the area(s) at the Facility where hazardous constituents, industrial wastes, other wastes, and/or hazardous waste were disposed without a permit, or where used oil was disposed.
8. The Remediation Plan is subject to Ohio EPA review and approval. If Ohio EPA does not approve the Remediation Plan and provides Respondent with a written statement of deficiencies, Respondent shall revise the Remediation Plan or submit a new Remediation Plan for approval that corrects the stated deficiencies within thirty (30) days after receipt of such written statement. Ohio EPA may approve the Remediation Plan with modifications. If Ohio EPA modifies the Remediation Plan, the modified Remediation Plan becomes the approved Remediation Plan.
9. Upon receipt of Ohio EPA's approval of the Remediation Plan, Respondent shall implement the Remediation Plan in accordance with the standards contained in OAC rules 3745-66-11(A) and (B), and OAC rule 3745-66-14, and/or the requirements in OAC rule 3745-279-22(D), and the specifications and schedules contained in the approved Remediation Plan and any conditions attached thereto.
10. Within sixty (60) days after the completion of work required by the approved Remediation Plan, Respondent shall submit to Ohio EPA, for review and approval, a certification that the remediation work was conducted in

accordance with the approved Remediation Plan. The certification shall be signed by Respondent using the format found in OAC rule 3745-50-42(D).

11. Respondent shall provide Ohio EPA with at least five working days notice prior to each day of any sampling at the Facility conducted by Respondent or by any persons acting on behalf of Respondent to complete the tasks required by these Orders.
12. Respondent shall pay Ohio EPA the amount of \$32,000.00 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 hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00;
 - b. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00;
 - c. Within two hundred ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00; and
 - d. Within three hundred (300) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$8,000.00.

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

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
122 South Front Street, 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

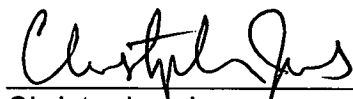
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

NOV 26 2003

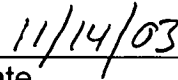
Date

IT IS SO AGREED:

Park-Ohio Industries, Inc.



Signature



Date

MATTHEW CRAWFORD

Printed or Typed Name

President

Title