

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Pease Industries, Inc.
7100 Dixie Highway
Fairfield, Ohio 45014

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:

Director's Final Findings
and Orders

OHIO E.P.A.
AUG 23 2002
DIRECTOR'S JOURNAL

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Pease Industries, Inc. ("Pease") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under R.C. 3704.03 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon Pease and successors in interest liable under Ohio law. No change in ownership relating to the facility identified in Finding 1 shall in any way alter Pease's obligations under these Orders.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in R.C. Chapter 3704 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Pease owns and operates a facility that manufactures doors for commercial and industrial use and is located at 7100 Dixie Highway, Fairfield, Butler County, Ohio.
2. At the above-referenced facility, Pease owns and operates door lines #1 and #2, a Ransburg paint line, a reverse roll coater, a polystyrene block molder and a registry/fiberglass staining operation, which are identified by Ohio EPA as "sources K001, K003, K002, P006, P012 and R011," respectively. These sources were installed and began operation at various times during the period from 1968 to 1993. At the end of 1999, Pease added and began to operate door line #3, a reverse roll coater, and a polystyrene foam embosser, which are identified by Ohio EPA as "sources K004, K005 and P013," respectively. Pursuant to Ohio Administrative Code ("OAC") Rule 3745-31-02, permits to install ("PTIs") were properly obtained by Pease for these above-mentioned sources.

3. Sources K001, K002, K003, K004, K005, P006, P012, P013 and R011 are "air contaminant sources" as defined in OAC Rules 3745-15-01(C) and (W), 3745-31-01(D), and 3745-35-01(B)(1) and R.C. 3704.01(C). 2-butoxyethanol (a.k.a. glycol monobutyl ether) is one of the hazardous air pollutants ("HAPs") that is emitted from these sources.

4. The synthetic minor PTI (# 14-1490) for sources K001, K002, K003, P006, P012 and R011 was issued by Ohio EPA on November 26, 1997, pursuant to OAC Rule 3745-31-02. Renewal permit to operate ("PTO") applications for the above-referenced sources were submitted to the Hamilton County Department of Environmental Services ("HAMCO"), a contractual representative of Ohio EPA in Hamilton County, by Pease on June 11, 1999.

5. OAC Rule 3745-77-02 prohibits the operation of any Title V source after the date that a complete and timely Title V permit application is required to be submitted under OAC Rule 3745-77-04, at a facility with a PTE greater than 100 tons per year of a criteria air pollutant or greater than 10 tons per year of an individual HAP or greater than 25 tons per year of any combination of HAPs, unless such facility is in compliance with a Title V permit issued by Ohio EPA or has filed a timely and complete Title V permit application with Ohio EPA. OAC Rule 3745-77-04 specifies deadlines for the submission of Title V permit applications. Since the PTE for a single HAP at Pease's facility is greater than 10 tons per year, Pease's facility is subject to OAC Rules 3745-77-02 and 3745-77-04(B)(1). Therefore, Pease was required to submit a Title V permit application to Ohio EPA as required by OAC Rule 3745-77-02, by no later than February 27, 1996, as specified in OAC Rule 3745-77-04. However, Pease submitted a Federally Enforceable PTI application on a timely basis prior to February 27, 1996. Until approximately March 2000, neither HAMCO nor Pease were aware that emissions of any single HAP at the facility exceeded 10 tons per year. R.C. 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA. Furthermore, R.C. 3704.05(K) prohibits any person from operating a Title V source except in compliance with a Title V permit or if a timely and complete Title V permit application was filed with Ohio EPA.

6. OAC Rule 3745-78-02 requires owners or operators of Title V sources to submit annual fee emission reports that identify the actual emissions of specified air pollutants and to pay fees for such emissions upon receipt of invoices. The first fee emission report was due by April 15, 1994 for calendar year 1993, and subsequent reports were due by April 15 of each year thereafter.

7. On August 9, 1999, Pease submitted to HAMCO complete PTI applications for sources K004, K005 and P013. On November 17, 1999, Ohio EPA issued PTI # 14-4756 for these sources.

8. On March 13, 2000, Pease submitted to HAMCO what it called a voluntary audit disclosure of non-compliance with applicable rules for its facility. On the same day,

at Pease's request, HAMCO met at its office with Pease to discuss the result of its audit, including findings concerning HAP emissions at the Pease facility. At this meeting, Pease agreed that it would go forward with the submission of a Title V application. On the same day, Pease also submitted by hand delivery to HAMCO the HAP emission calculations for the calendar year of 1999.

9. On March 13 and on March 22, 2000, Pease sent letters to the United States Environmental Protection Agency - Region V disclosing its audit results.

10. On April 3, 2000, HAMCO sent a letter to inform Pease that it had received Pease's notice claiming voluntary disclosure of noncompliance from Ohio EPA, Office of Legal Affairs on March 29, 2000. This letter also informed Pease that HAMCO had been authorized as a representative of the Director of Ohio EPA to determine if Pease had met the requirements for administrative and civil penalty immunity under R.C. 3745.72.

11. On June 14, 2000, HAMCO informed Ohio EPA by mail that it made the determination that Pease had not satisfied the requirements for administrative and civil penalty immunity due to monthly records, as required by its synthetic minor PTI, of its HAP emissions not being available at the time of inspection of the facility by HAMCO on January 28, 2000, and that the audit disclosure of non-compliance had been preceded by a records request during the annual facility inspection conducted by its agency.

12. On July 17, 2000, HAMCO informed Pease by mail that based on its review, Pease was a "major source," as defined by OAC Rule 3745-77-01(W). Also, HAMCO stated that Pease was not entitled to immunity from civil or administrative penalties for the violations identified in the March 13, 2000 disclosure.

13. On September 14, 2000, HAMCO sent Pease a Notice of Violation ("NOV") for its failure to submit a Title V permit application for its facility and for operation of a Title V source without a Title V permit or a timely filed Title V permit application, in violation of OAC Rules 3745-77-02 and 3745-77-04. Further, the NOV indicated that Pease violated the terms and conditions of PTI # 14-4190 and R.C. 3704.05(C) for exceeding the 10 tons per year limit for a single HAP. Finally, the letter stated that Pease also violated OAC Rule 3745-78-02 for its failure to submit the required annual Title V fee emission reports for its facility.

14. On October 1, 2000, Pease responded by letter to HAMCO on the violations that were outlined in the September 14, 2000 NOV and also submitted corrective actions for these violations. Pease explained why it was entitled to immunity from civil and administrative penalties under R.C. 3745.72 in response to HAMCO's July 17, 2000 letter. Attached to this letter were the annual reports summarizing HAP emissions from the facility for the years 1995 - 1999. These annual reports revealed that Pease's glycol ether HAP emissions, including 2-butoxyethanol, were 13.51, 16.04, 16.87, 14.13 and 14.70 tons per

year from 1995 to 1999, respectively. R.C. 3704.05(C) prohibits any person from violating any term and condition of a permit issued by the Director of Ohio EPA. Pease was in violation of the terms and conditions of PTI # 14-4190 and R.C. 3704.05(C) for its failure to comply with the 10 ton per year single HAP limitation from 1995 to 1999.

15. On December 4, 2000, Pease submitted to Ohio EPA the Title V fee emission reports for the calendar years from 1995 to 1999, an administratively complete Title V application for its facility, and an administratively complete facility-wide PTI application (PTI # 14-005064).

16. On April 4, 2001, Pease timely submitted to Ohio EPA a Title V fee emission report for the calendar year 2000.

17. In June, 2002, Pease submitted Toxic Release Inventory ("TRI") reporting forms for years 2001 and 1995 through 1998 for glycol ether compounds, which brought to the facility into full compliance with the requirements of R.C. Chapter 3751 and the regulations adopted hereunder.

18. From February 27, 1996 until December 8, 2000, Pease has been operating its facility without timely applying for or possessing a Title V permit from Ohio EPA, in violation of OAC Rules 3745-77-02 and 3745-77-04, and R.C. 3704.05(G) and (K). From 1997 through 2000, Pease was not in compliance with the 10 tons per year limitation for a single HAP, in violation of the terms and conditions of PTI # 14-4190 and R.C. 3704.05(A) and (C). In addition, Pease did not timely submit Title V fee emission reports for the calendar years from 1995 through 1999, in violation of OAC Rule 3745-78-02 and R.C. 3704.05(G).

19. 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.

20. Pease does not admit to any of the allegations, facts, statements, or legal conclusions set forth in these Findings of Fact.

V. ORDERS

The Director hereby issues the following Order:

Pursuant to R.C. 3704.06, Pease is assessed a civil penalty in the amount of forty-one thousand two hundred and fifty dollars (\$41,250) in settlement of Ohio EPA's claim for civil penalties and all matters described in the Findings of Fact set forth above. Within thirty (30) days after the effective date of these Orders, Pease shall pay to Ohio EPA the amount of thirty-three thousand dollars (\$33,000) of the total penalty amount. Payment

shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to Brenda Case, Fiscal Specialist, or her successor, at the following address:

Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

The remaining eight thousand two hundred and fifty dollars (\$8,250) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Pease shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban area tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, 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. 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 Pease's facility.

VII. NOTICE

All documents required by these Orders, unless otherwise specified by Ohio EPA

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in writing, shall be addressed to:

Hamilton County Department of Environmental Services
Attn: Gerald Fortson or successor
250 William Howard Taft Road
Cincinnati, Ohio 45219

and to:

Ohio Environmental Protection Agency
Division of Air Pollution Control
Attn: Thomas Kalman or successor
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

VIII. RESERVATION OF RIGHTS

Nothing contained herein prevents Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Pease for noncompliance with these Orders. Nothing contained herein prevents Ohio EPA from exercising its lawful authority to require Pease to perform additional activities pursuant to R.C. Chapter 3704 or any other applicable law in the future. Nothing herein restricts the right of Pease to raise any administrative, legal, or equitable claim or defense with respect to such further actions that Ohio EPA may seek to require of Pease.

IX. MODIFICATIONS

These Orders may be modified by mutual agreement of the parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of Ohio EPA.

X. SIGNATORIES

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 this document.

XI. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, Pease agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Pease's civil liability for the specific violations cited herein. Pease hereby waives the right to appeal the issuance, terms and service of these Orders

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Pease Industries, Inc.

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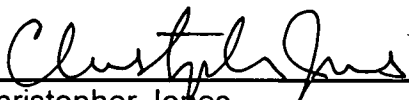
and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Pease agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Pease retains the right to intervene and participate in such an appeal. In such event, Pease shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

These Orders shall take effect on the date entered into the Journal of the Director of Ohio EPA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

8-22-02
Date

IT IS AGREED:

Pease Industries, Inc.



By

8/6/02
Date

VP, OPERATIONS

Title