

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Gougler Industries, Inc.
705 Lake Street
Kent, Ohio 44240

:
:
:

Director's Final Findings
and Orders

OHIO E.P.A.
DEC 23 2002
REGISTERED DIRECTOR'S JOURNAL

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

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

II. PARTIES BOUND

These Orders shall apply to and be binding upon Gougler Industries, Inc. and successors in interest liable under Ohio law. No change in ownership of Gougler Industries, Inc.'s facility as hereafter defined shall in any way alter its 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 3704 and the rules promulgated thereunder.

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Gougler Industries, Inc. ("Gougler") owns and operates a spray booth located at 705 Lake Street, Kent, Portage County, Ohio. This spray booth employs an air gun and is equipped with a filter for the control of particulate matter. The spray booth, which is used for the painting of motorized vehicles and miscellaneous metal parts, is identified by Ohio EPA application number 1667040039 K001 ("source K001"). Gougler is a subsidiary of Furukawa Co. Ltd., which has its principal place of business in Tokyo, Japan.

2. Source K001 is an "air contaminant source" as defined by Ohio Administrative Code ("OAC") Rule 3745-15-01(C) and (W), and emits volatile organic compounds ("VOC"), as defined in OAC Rule 3745-21-01(B)(6), and such emissions are subject to the VOC emission control standards in OAC Chapter 3745-21.

3. Source K001 was installed in 1994 pursuant to Permit to Install ("PTI") #16-1377, which was issued by Ohio EPA on June 24, 1994.

4. OAC Rule 3745-77-02(B) specifies, in part, that any "major source" is subject to the permitting requirements under OAC Chapter 3745-77. OAC Rule 3745-77-01(W) defines "major source," in part, as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the "potential to emit," as defined in OAC Rule 3745-77-01(BB), in the aggregate, 10 tons per year ("TPY") or more of any HAP, 25 TPY or more of any combination of HAPs, or 100 TPY or more of any of the specified air pollutants.

5. ORC § 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA. ORC § 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA.

6. Pursuant to OAC Rule 3745-31-05(D), owners or operators of sources subject to Title V permitting requirements due only to potential emissions, could apply for and obtain Federally Enforceable Synthetic Minor Permits to Install ("FESMPTIs"), which restrict production rates and/or hours of operation, that could reduce potential emissions to below Title V applicability thresholds and avoid Title V permitting requirements.

7. The potential to emit of Gougler's facility for combined HAPs, which consist of xylene, toluene and ethylbenzene, exceeded the 25 TPY threshold level and made Gougler's facility a major source. On June 24, 1994, PTI #16-1377 was issued to Gougler for source K001. Since there was an increase in its production and operating schedule, Gougler filed a FESMPTI application with Ohio EPA on February 26, 1996, and FESMPTI #16-1567 was issued by Ohio EPA to Gougler on August 21, 1996.

8. The FESMPTI for source K001 restricts the total HAP emissions for combined HAPs to 11.1 TPY, as a rolling, 12-month summation. This FESMPTI also restricts the VOC emissions from the facility to 156 pounds per day and the number of motor vehicles painted to 35 per day. Sections 4.a through 4.d under the Additional Special Terms and Conditions of the FESMPTI require Gougler to do record keeping and reporting of the amount of coatings applied to miscellaneous metal parts and products. Similarly, Sections 5.a through 5.d of the FESMPTI require Gougler to do record keeping and reporting of the amount of coatings applied to motor vehicles. Sections 6.a through 6.d require Gougler to do record keeping and reporting of cleanup material usage. Also, Section 7.a through 7.j require Gougler to do record keeping and reporting of both individual and combined HAPs for source K001.

9. On February 26, 1996, Gougler submitted to Ohio EPA a complete permit to operate ("PTO") application for source K001. On July 2, 1998, Ohio EPA issued a PTO for source K001. This PTO requires Gougler to calculate and record VOC, individual HAP, and combined HAP emissions as stated in Sections C.1 through C.4. In addition, Sections D.1 and D.2 of the PTO also require the submission of quarterly deviation (excursion) reports.

10. On September 7, 2000, the Akron Regional Air Quality Management District ("ARAQMD"), the contractual representative of Ohio EPA in Portage County, inspected the Gougler facility. At this inspection, ARAQMD documented that Gougler had never submitted any deviation reports. ARAQMD also noticed that since 1998 and up to the time of the inspection, no records of coating usages and VOC contents existed and that it would be impossible to recreate these records. Since Gougler failed to do record keeping and reporting to track both VOC and HAP emissions and coating usages that were required by its FESMPTI and PTO, Gougler was in violation of the FESMPTI and PTO requirements, and ORC § 3704.05(C).

11. On September 11, 2000, ARAQMD sent Gougler a notice of violation, which cited the violations that were observed during the September 7, 2000 inspection of the facility. In this NOV, ARAQMD requested Gougler to submit a complete compliance plan and time schedule within fourteen days in order to correct the deficiencies that were documented during the inspection.

12. On September 23, 2000, Gougler submitted to ARAQMD a letter as well as the compliance plan and time schedule required in ARAQMD's September 11, 2000 letter. Gougler informed ARAQMD that it had implemented the required record keeping pursuant to its FESMPTI and PTO.

13. On May 22, 2001, ARAQMD confirmed to Ohio EPA that Gougler had corrected the violations that were originally outlined in ARAQMD's September 11, 2000 letter.

14. 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. Gougler shall maintain compliance with the terms and conditions of any FESMPTI and PTO issued by Ohio EPA for source K001.

2. Pursuant to ORC § 3704.06, Gougler is assessed a civil penalty in the amount of eighteen thousand and two hundred dollars (\$18,200) in settlement of Ohio EPA's claim for civil penalties. Gougler shall pay to Ohio EPA the amount of fourteen thousand five hundred and sixty dollars (\$14,560) of the penalty pursuant to the following schedule:

- one thousand three hundred and sixty dollars (\$1,360) due within thirty (30) days after the effective date of these Orders;
- six thousand and six hundred dollars (\$6,600) due within one hundred and eighty (180) days after the effective date of these Orders; and
- six thousand and six hundred dollars (\$6,600) due within three hundred and sixty-five (365) days after the effective date of these Orders.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." Each 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 Gougler Industries, Inc. and the facility.

A copy of the official checks shall be submitted to James A. Orlemann, Manager, Engineering Section, or his successor, Division of Air Pollution Control, Ohio EPA, P.O. Box 1049, Columbus, Ohio 43216-1049.

The remaining three thousand six hundred and forty dollars (\$3,640) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Gougler shall deliver an official 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 the official check shall be sent to James A. Orlemann, Manager, Engineering Section, or his successor, at the above-stated address.

VI. TERMINATION

Gougler's obligations under these Orders shall terminate when Gougler certifies in writing and demonstrates to the satisfaction of Ohio EPA that Gougler has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Air Pollution Control 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 Gougler of the obligations that have not been performed, in which case Gougler 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."

The certification shall be submitted by Gougler to Ohio EPA and shall be signed by a responsible official of Gougler. For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of Gougler.

VII. OTHER CLAIMS

Nothing in these Orders shall constitute or be construed as a release from any claim, cause of action of 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 Gougler.

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 Gougler.

IX. MODIFICATIONS

These Orders may be modified by 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. NOTICE

All documents required by these Orders, unless otherwise specified by Ohio EPA in writing, shall be addressed to:

Akron Regional Air Quality Management District
Attn: Sean Vadas
Citicenter - Suite 904
146 South High Street
Akron, Ohio 44308

and to:

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

XI. RESERVATION OF RIGHTS

Ohio EPA and Gougler each reserve all rights, privileges and causes of action, except as specially 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, Gougler 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 Gougler's liability for the violations specifically cited herein.

Gougler hereby waives the right to appeal the issuance, terms and conditions, and service of these Orders, and Gougler hereby waives any and all rights Gougler may have to seek administrative or judicial review of these Orders either in law or equity.

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

XIII. EFFECTIVE DATE

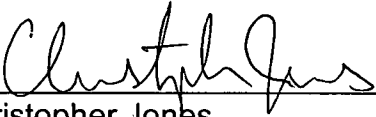
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

12-18-02
Date

IT IS SO AGREED:

Gougler Industries, Inc.



Signature

12/11/02
Date

L. D. WITTENSOLDNER
Printed or Typed Name

PRESIDENT / CFU
Title