

OHIO E.P.A.  
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ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

**Retay's Welding Company**  
7700 Race Road  
North Ridgeville, Ohio 44039

**Respondent**

**Director's Final  
Findings and Orders**

**PREAMBLE**

It is hereby agreed by and among the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Findings and Orders (Orders) are issued to Retay's Welding Company (Respondent) pursuant to the authority vested in the director of the Ohio Environmental Protection Agency (Ohio EPA) under § 3734.13 and § 3745.01 of the Ohio Revised Code (ORC).

**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 relating to the Facility shall in any way alter Respondent's obligations under these Orders. Respondent's obligations under these Orders may be altered only by the written action of the director of Ohio EPA.

**III. DEFINITIONS**

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.
2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA director's journal.

#### IV. FINDINGS OF FACT

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

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 metal fabricating facility at 7700 Race Road, North Ridgeville, Lorain County, Ohio ("Facility"). Respondent was incorporated to do business in the State of Ohio on January 2, 1973.
3. 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.
4. On April 15, 1998, Ohio EPA received a complaint (#5625) alleging illegal disposal of hazardous waste at the Facility.
5. On June 28 and July 1, 1999, Ohio EPA conducted a complaint investigation inspection at the Facility and determined that Respondent had failed to determine if the waste it generated was hazardous waste, in violation of OAC 3745-52-11. Moreover, the complaint investigation confirmed that Respondent had routinely disposed of waste material on the ground outside various buildings at the Facility. Ohio EPA took soil samples from these areas as part of its investigation.
6. By letter dated July 28, 1999, Ohio EPA notified Respondent of the violation cited in Finding No. 5. and asked for a response.
7. On August 2, 1999, Ohio EPA received the analytical results of sampling at the Facility. Sampling results indicated that volatile organic constituents usually associated with paint wastes and waste solvents had been improperly disposed of at two sites at the Facility, in violation of ORC § 3734.02(E) and (F).
8. By letter dated October 19, 1999, Ohio EPA notified Respondent of the violation cited in Finding No. 7.
9. On September 22, 2000, Ohio EPA approved a hazardous waste closure plan for the locations noted in Finding No. 7.
10. The two locations noted in Findings Nos. 7 and 9 were certified closed on November 1, 2000.

11. As part of its return to compliance, Respondent notified Ohio EPA of its hazardous waste activity at the Facility and was issued U.S. EPA Identification number OHR000039198. Respondent is now classified as a conditionally exempt small quantity generator ("CESQG") of hazardous waste, generating, inter alia, waste paints and solvents (D001, D035, F003, and F005).

#### **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 submit documentation (e.g., signed hazardous waste manifests) demonstrating that its next two shipments of hazardous waste off-site from the Facility is being sent to a type of facility authorized to receive CESQG hazardous waste as described in OAC rule 3745-51-05. Respondent shall submit this documentation to Ohio EPA within five (5) days after sending its hazardous waste off-site to a facility described above.
2. Respondent shall pay to Ohio EPA the amount of \$13,600.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment of the \$13,600.00 shall be made 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 \$1,700.00;
  - b. Within one hundred twenty (120) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00;
  - c. Within two hundred ten (210) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00;
  - d. Within three hundred sixty-five (365) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00;
  - e. Within four hundred fifty-five (455) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00;

- f. Within five hundred forty-five (545) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00;
- g. Within six hundred thirty-five (635) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00; and
- h. Within seven hundred thirty (730) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$1,700.00.

Payment shall be made by tendering certified checks in the stated amounts to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

#### **VI. TERMINATION**

Respondent's obligations under these Orders shall terminate when Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this demonstration and certification.

This certification shall be submitted by Respondent and shall be signed by a responsible official of Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

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 signatory to these Orders, for any liability arising out of or relating to the operations 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

### **IX. NOTICE**

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency  
Northeast District Office  
Division of Hazardous Waste Management  
Attn: DHWM Manager  
2110 East Aurora Road  
Twinsburg, Ohio 44087

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  
Attn: Manager, Compliance Assurance Section  
P.O. Box 1049  
Columbus, Ohio 43216-1049

For deliveries to the building:

Christopher Jones, Director  
Ohio Environmental Protection Agency  
Lazarus Government Center  
Division of Hazardous Waste Management  
Attn: Manager, Compliance Assurance Section  
122 South Front Street  
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

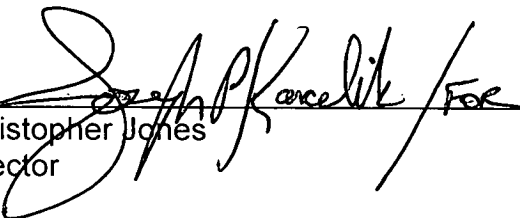
**X. RESERVATION OF RIGHTS**

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

**XI. SIGNATORIES**

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

**IT IS SO ORDERED:**

  
\_\_\_\_\_  
Christopher Jones  
Director

AUG 6 2002  
\_\_\_\_\_  
Date

**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 addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders 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 Respondent agree that in the event that 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.

**IT IS SO AGREED:**

**Retay's Welding Company**

Allen D. Retay, President

7/29/02  
Date

ALLEN D. RETAY  
Printed or Typed Name

PRESIDENT  
Title

**Ohio Environmental Protection Agency**

Joseph P. Konecny / For  
Christopher Jones  
Director

AUG 6 2002  
Date