

OHIO E.P.A.

OCT 12 2001

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY'S JOURNAL

In the Matter of:

C.O.W. Industries, Inc.	:	<u>Director's Final Findings</u>
1875 Progress Ave.	:	<u>and Orders</u>
Columbus, Ohio 43207	:	

PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to C.O.W. Industries, Inc. pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") sections 3745.01 and 3751.09.

II. PARTIES

These Orders shall apply to and be binding upon C.O.W. Industries and its assigns and successors in interest.

III. DEFINITIONS

Unless otherwise stated, all terms used in these Orders shall have the same meaning as used in ORC Chapter 3751 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

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

1. C.O.W. Industries, Inc., previously Central Ohio Welding Industries, owns and operates a precision sheet metal fabrication operation, producing switching frames and cabinetry. Various sheet metals and stock are processed. Most products are painted.
2. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within Standard Industrial Classification (hereinafter "SIC") code numbers 20 through 39, has 10 or more full time employees, and uses a toxic chemical listed in OAC rule 3745-100-10 in excess of 10,000 pounds in a calendar year or manufactures or processes a toxic chemical in excess of 25,000 pounds in a calendar year, must file a TRI report with the Ohio EPA and U.S. EPA on or before July 1 of the following year.

3. C.O.W. Industries, Inc. is classified within SIC Code range 20 through 39, specifically code 3499, fabricated metal products.
4. C.O.W. Industries, Inc. employed 141, 132 and 129 people in 1997, 1998 and 1999, respectively.
5. Trichloroethylene, Chemical Abstracts Services (CAS) number 79-01-6, is listed in OAC rule 3745-100-10.
6. C.O.W. Industries, Inc. used 16,104, 17,446 and 18,117 pounds of trichloroethylene in 1997, 1998 and 1999, respectively.
7. C.O.W. Industries, Inc. failed to submit TRI reports and fees to Ohio EPA for trichloroethylene in 1997, 1998 and 1999, on or before July 1, 1998, July 1, 1999 and July 1, 2000, respectively, as required by OAC rules 3745-100-07 and 3745-100-12.
8. On November 8, 2000, Ohio EPA personnel conducted an inspection, subsequent to an October 13, 2000 notification.
9. C.O.W. Industries, Inc. submitted TRI Form Rs for trichloroethylene for calendar years 1997, 1998 and 1999, which Ohio EPA received on December 21, 2000.
10. 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:

Pursuant to R.C. 3751.10, C.O.W. Industries, Inc. is assessed a civil penalty of \$5,000 in settlement of Ohio EPA's claim for civil penalties. Within fourteen (14) days from the effective date of these Orders, C.O.W. Industries, Inc. shall pay to Ohio EPA the amount of four thousand dollars (\$4,000) of the total penalty amount. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to the following address:

Fiscal Administration
attn: Vicki Galilei
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

The remaining one thousand dollars (\$1,000) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, C.O.W. Industries, Inc. 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 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 C.O.W. Industries, Inc.

VII. RESERVATION OF RIGHTS

Nothing contained herein prevents the 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 C.O.W. Industries, Inc. for noncompliance with these Orders. Nothing contained herein prevents the Ohio EPA from exercising its lawful authority to require C.O.W. Industries, Inc. to perform additional activities pursuant to ORC Chapter 3751 or any other applicable law in the future. Nothing herein restricts the rights of C.O.W. Industries, Inc. to raise any administrative, legal or equitable claim or defense with respect to such further actions which the Ohio EPA may seek to require of C.O.W. Industries, Inc.

VIII. TERMINATION

These Orders shall terminate when Ohio EPA and the Ohio Department of Natural Resources, Division of Forestry receive the payments specified in Section V of these Orders.

IX. 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.

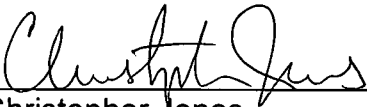
X. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, C.O.W. Industries, Inc. agrees to comply with these Orders. Compliance with these Orders shall be full accord and satisfaction for C.O.W. Industries, Inc.'s liability for the specific violations cited herein. C.O.W. Industries, Inc. hereby waives any and all rights it may have to seek administrative and/or judicial review of these orders either in law or equity.

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

IT IS SO ORDERED AND AGREED :

Ohio Environmental Protection Agency

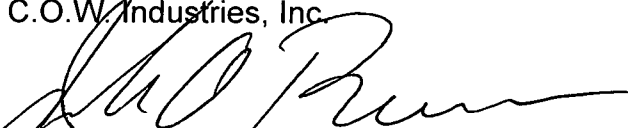


Christopher Jones
Director

10-10-01
Date

IT IS AGREED :

C.O.W. Industries, Inc.



By John A. Burns

10/3/01
Date

Pres + C.E.O.

Title