OhioEPA
State of Ohio Environmental Protection Agency

STREET ADDRESS:
Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:
P.O. Box 1049
Columbus, OH 43216-1049

January 12, 2007

CERTIFIED MAIL

Re: Director's Final Findings & Orders
Orbit Industries, Inc.
US EPA ID No.: OHR 000 102 475

Mr. Robert Aleksandrovic, CEO
Orbit Industries, Inc.
6840 Lake Abram Drive
Middleburg Heights, OH 44130

Dear Mr. Aleksandrovic:

Here are the Director's Final Findings and Orders (Orders) issued to Orbit Industries, Inc. on January 12, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.h. and 2.a. through 2.h. Please remember that your first payments are due no later than April 12, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Kurt Princic at (330) 963-1200.

Sincerely,

Pamela S. Allen, Manager
Regulatory and Information Services
Division of Hazardous Waste Management

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Attachments

C: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Elissa Miller, Legal
Heidi Greismer, PIC
Kurt Princic, Mgr., DHWM, NEDO

OHIO E.P.A.

JAN 12 2007

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Orbit Industries, Inc.
6840 Lake Abram Drive
Middleburg Hts., Ohio 44130

Respondent

Director's Final Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 1-12-07

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Orbit 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 and 3745.01.

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 of the Facility 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

The Director of Ohio EPA has determined the following findings:

1. Respondent performs non-destructive testing and chemical etching on aluminum and steel at its facility located at 6840 Lake Abram Drive,

Middleburg Hts., Ohio (Facility). Respondent is the owner and operator of the Facility. Respondent is a domestic corporation, incorporated on May 14, 1965.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

3. Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHR000102475.

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 is identified as a small quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility includes spent degreaser solvent (F001), waste corrosive liquids (D002, D006, D007, and D040) and solvent contaminated rags (D001).

5. On November 1, 2005, Ohio EPA conduct an inspection of the Facility. As a result of these inspections, Ohio EPA determined that Respondent had, *inter alia*:

   a. Stored hazardous waste without a permit, in violation of ORC § 3734.02(E) and (F);

   b. Failed to evaluate wastes to determine if they were hazardous, in violation of OAC rule 3745-52-11;

   c. Failed to maintain copies of waste analysis data and land disposal restriction documentation, in violation of OAC rule 3745-270-07(A)(2) and (8);

   d. Failed to post emergency information by the telephone and failed to familiarize employees with hazardous waste handling and emergency procedures, in violation of OAC rule 3745-52-34(D)(5);

   e. Failed to conduct inspections of emergency equipment, in violation of OAC rule 3745-65-33;

   f. Failed to conduct and record weekly inspections of the hazardous waste accumulation area, in violation of OAC rule 3745-66-74;

   g. Failed to comply with hazardous waste tank system requirements, in violation of OAC rule 3745-66-101;

h. Failed to accumulate universal waste lamps in containers/packages that were closed, in violation of OAC rule 3745-273-13(D);

i. Failed to properly label universal waste lamps, in violation of OAC rule 3745-273-14(E); and

j. Failed to label two 55-gallon containers of used oil, in violation of OAC rule 3745-279-22(C). This violation was abated at the time of this inspection.

6. By letter dated November 8, 2005, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.

7. On December 11 and December 30, 2005 and January 9, January 10, January 23, January 24, January 25, January 27 and February 2, 2006, Respondent submitted responses to Ohio EPA's letter referenced in Finding No. 6. of these Orders.

8. By letter dated February 22, 2006, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.b. through 5.j. of these Orders.

9. Based upon the fact that no releases of hazardous waste were evident at the time of the inspections referenced in Finding No. 5. of these Orders, the Director has determined that no further action is required at this time to address the violation referenced in Finding No. 5.a. of these Orders.

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 pay Ohio EPA the amount of $22,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $17,600.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

   a. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

   b. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

c. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

d. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

e. Within 450 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

f. Within 540 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00;

g. Within 630 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00; and

h. Within 720 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $2,200.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining $4,400.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $4,400.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:

a. Within 90 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

b. Within 180 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

c. Within 270 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

d. Within 360 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

e. Within 450 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

f. Within 540 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00;

g. Within 630 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00; and

h. Within 720 days after the effective date of these Orders, Respondent shall pay to the Ohio EPA Clean Diesel School Bus Program the amount of $550.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent miss a scheduled payment as described in Order Nos. 2.a. through 2.h. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the payment was due. Payment shall be made in accordance with the procedures established in Order No. 1. A copy of each check shall be submitted in accordance with Section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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:

Joseph P. Koncelik, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Joseph P. Koncelik, 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 the hazardous waste unit as well as corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such closure or corrective action. 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 rights to seek closure of the hazardous waste unit and corrective action at the Facility, which rights 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

Laura H. Powell

~~Joseph P. Koncelik~~ Laura H. Powell
Director

JAN 12 2007
Date

IT IS SO AGREED:

Orbit Industries, Inc.

By: Robert Aleksandrovic
Signature

DECEMBER 28, 2006
Date

ROBERT ALEKSANDROVIC
Printed or Typed Name

CHIEF OPERATING OFFICER
Title