



State of Ohio Environmental Protection Agency

STREET ADDRESS:

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50 W. Town St., Suite 700
Columbus, Ohio 43215

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MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

CERTIFIED MAIL

7007 0220 0000 7613 0698

January 23, 2008

**Re: Director's Final Findings & Orders
Deco Tools, Inc.
OHD 005 041 132**

Mr. Mike Bollenbacher, President
Deco Tools, Inc.
1541 Coining Drive
Toledo, Ohio 43612

Dear Mr. Bollenbacher:

Here are the Director's Final Findings and Orders (Orders) issued to Deco Tools, Inc. on January 23, 2008. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order Nos. 1.a through 1.b. Please remember that your payments are due no later than February 22, 2008.

If you have any questions concerning compliance with these Orders, do not hesitate to contact John Pasquarette at (419) 352-8461.

Sincerely,

David A. Sholtis, Assistant Chief
Division of Hazardous Waste Management

Attachments

cc: Michael A. Savage, Chief, DHWM
Harry Sarvis, Mgr., CAS, DHWM
Elissa Miller, Legal
Heidi Greismer, PIC
John Pasquarette, Mgr., DHWM, NWDO
Randy Engwert, Anspach Meeks Ellenberger LLP

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OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Deco Tools, Inc.
1541 Coining Drive
Toledo, Ohio 43612

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.

PREAMBLE

It is agreed by the parties hereto as follows:

By: [Signature] Date: 1-23-00

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Deco Tools, 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 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 is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

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DECO TOOLS INC.

2. Respondent performs metal working necessary to manufacture paint masks and is located at 1541 Coining Drive, Toledo, Lucas County, Ohio (Facility). Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD005041132.
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. At the time of the inspection and investigation referenced in Finding No. 4 below, Respondent was a small quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes various rinses and cleanup wastes (D002, D008, D011) and spent solvents (D008, D011, F003, F005).
4. On July 12 and 20, 2005, Ohio EPA conducted a complaint investigation and compliance evaluation inspection at the Facility. As a result of the investigation and inspection, Ohio EPA determined that Respondent had:
 - a. Failed to determine whether wastes generated at the Facility were hazardous wastes, in violation of OAC rule 3745-52-11;
 - b. Established and operated an unpermitted hazardous waste treatment and/or disposal facility by allowing hazardous waste to evaporate into the air, in violation of ORC § 3734.02(E) and (F);
 - c. Caused hazardous waste to be transported to a facility not operating under a hazardous waste facility installation and operation permit issued in accordance with ORC Chapter 3734., in violation of ORC § 3734.02(F);
 - d. Failed to prepare and utilize a hazardous waste manifest for off-site shipments of hazardous waste, in violation of OAC rule 3745-52-20;
 - e. Failed to post the necessary emergency information next to a telephone at the Facility, in violation of OAC rule 3745-52-34(D)(5)(b);
 - f. Failed to ensure that all employees at the Facility are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal Facility operations and emergencies, in violation of OAC rule 3745-52-34(D)(5)(c);

- g. Failed to mark each accumulation container of hazardous waste with either the words "Hazardous Waste" or with other words that identify the contents of the container, in violation of OAC rule 3745-52-34(C)(1)(b);
 - h. Failed to mark each storage container of hazardous waste with the accumulation start date, as well as with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(A)(2) and (3);
 - i. Failed to maintain hazardous waste containers in good condition and closed when not adding or removing waste, in violation of OAC rules 3745-55-71 and 3745-55-73; and
 - j. Failed to conduct and document weekly inspections of hazardous waste containers at the Facility, in violation of OAC rules 3745-55-74.
5. By letter dated September 21, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.j. of these Orders.
 6. In correspondence dated October 24, 2005, Respondent provided responses to Ohio EPA's September 21, 2005 letter.
 7. On November 17, 2005, Respondent conducted sampling of the unevaluated wastes, referenced in Finding No. 4.a. of these Orders, to determine whether those wastes were hazardous wastes.
 8. Based upon the results from the November 17, 2005 sampling event, referenced in Finding No. 7 of these Orders, Ohio EPA determined that Respondent had established and operated an unpermitted hazardous waste storage facility by storing hazardous waste in three aboveground storage tanks for longer than 180 days, in violation of ORC § 3734.02(E) and (F).
 9. By letter dated February 3, 2006, Ohio EPA notified Respondent of the violation referenced in Finding No. 8 of these Orders. Also in the February 3, 2006 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.e. and 4.g. through 4.j. of these Orders.
 10. By letter dated January 3, 2007, Ohio EPA again notified Respondent of the unabated violations referenced in Finding Nos. 4.a. through 4.d. and 4.f. of these Orders and requested a formal response.

11. In correspondence received by Ohio EPA on January 23, 2007, Respondent provided responses to Ohio EPA's January 3, 2007 letter. Also in the January 23, 2007 response, Respondent notified Ohio EPA of the procedures which were established and implemented to prevent treating hazardous waste and/or disposing of hazardous waste to the air via evaporation, as well as ensuring that hazardous waste is not transported to an unpermitted facility.
12. By letter dated February 8, 2007, Ohio EPA notified Respondent that Respondent had abated the violation referenced in Finding No. 4.d. of these Orders.
13. On March 5, 2007, Ohio EPA conducted a follow-up inspection at the Facility.
14. By letter dated March 12, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.a. and 4.f. of these Orders.
15. Based upon the responses and actions taken by Respondent, referenced in Finding No. 11 of these Orders, the Director has determined that Respondent has abated the ORC § 3734.02(E) and (F) violations referenced in Finding Nos. 4.b. and 4.c. of these Orders. In addition, Ohio EPA is not requiring nor reserving Ohio EPA's right to require Respondent to perform closure of Respondent's hazardous waste treatment and/or disposal unit, referenced in Finding No. 4.b. of these Orders, because there were no visible signs of releases onto the ground.
16. Because no releases of hazardous waste were observed from the three unpermitted hazardous waste storage tanks at the Facility, the Director has determined that no additional action is required of Respondent at this time regarding the ORC § 3734.02(E) & (F) violation referenced in Finding No. 8 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 \$19,950.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734., in accordance with the following provisions:

- a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$15,960.00 in settlement of Ohio EPA's claims for civil penalties which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$15,960.00. The official check 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 this check shall be submitted in accordance with Section X. of these Orders.
- b. In lieu of paying the remaining \$3,990.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$3,990.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payment within 30 days after the effective date of these Orders by tendering an official check made payable to "Treasurer, State of Ohio" for \$3,990.00. The official check 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 this 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.
- c. Should Respondent fail to fund the SEP within the required time frame established in Order No. 1.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 1.b., the amount of \$3,990.00 in accordance with the procedures in Order No. 1.a.

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
Northwest District Office
Division of Hazardous Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management

Director's Final Findings and Orders
Deco Tools, Inc.
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P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
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 three hazardous waste storage tanks at the Facility, as well as corrective action at the Facility, 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 three hazardous waste storage tanks and corrective action at the Facility by Respondent, 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

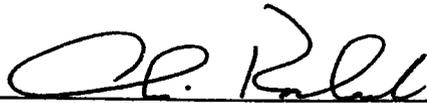
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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

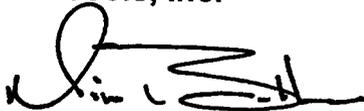


Director

JAN 23 2008

Date

**IT IS SO AGREED:
Deco Tools, Inc.**



Signature

12-3-07

Date

MIKE BOLLERBACHER

Printed or Typed Name

PRESIDENT

Title