



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center  
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**

May 30, 2007

**Re: Director's Final Findings & Orders  
DK Manufacturing Frazeytsburg, Inc.  
US EPA ID No.: OHD 004 284 535**

Mr. Daniel A. Keifer II, President  
DK Manufacturing Frazeytsburg, Inc.  
119 West 2<sup>nd</sup> Street  
Frazeytsburg, Ohio 43822

Dear Mr. Keifer:

Here are the Director's Final Findings and Orders (Orders) issued to DK Manufacturing Frazeytsburg, Inc. on May 30, 2007. These Orders are effective today.

I have also enclosed invoices for the penalty payments as required by Order No. 1.a. through 1.i. and Order No. 2.a. through 2.i. Please remember that your first payments are due no later than June 29, 2007.

If you have any questions concerning compliance with these Orders, do not hesitate to contact Dave Chenault at (740) 385-8501.

Sincerely,

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

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**Attachments**

c: Michael A. Savage, Chief, DHWM CO  
Harry Sarvis, Mgr., CAS, DHWM CO  
Todd Anderson, Legal  
Heidi Greismer, PIC  
Dave Chenault, Mgr., DHWM, SEDO

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

OHIO E.P.A.  
MAY 30 2007  
ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

DK Manufacturing Frazeyburg, Inc.  
119 West 2<sup>nd</sup> Street  
Frazeyburg, Ohio 43822

Director's Final  
Findings and Orders

Respondent

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: Joseph Laska Date: 5-30-07

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to DK Manufacturing Frazeyburg, 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 owns and operates a plastic components manufacturing facility located at 119 West 2<sup>nd</sup> Street, in Frazeyburg, Muskingum County (Facility). Respondent is an Ohio corporation, licensed to do business on December 3, 2004.

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 OHD004284535.
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 a large quantity generator of hazardous waste. The hazardous wastes generated by Respondent at the Facility include spent paint/solvent contaminated rags (D001, D035, F005) and paint sludges (D001, D035, F005) .
5. On June 27, 2006, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
  - a. Stored containers of hazardous waste without a permit, in violation of ORC § 3734.02 (E) and (F).
  - b. Failed to have a personnel training program, in violation of OAC rule 3745-65-16;
  - c. Failed to have a contingency plan for the Facility, in violation of OAC rule 3745-65-51 thru 3745-65-55;
  - d. Failed to conduct inspections of emergency equipment and weekly inspections of container accumulation areas, in violation of OAC rules 3745-65-33 and 3745-66-74;
  - e. Failed to maintain adequate aisle space, in violation of OAC rule 3745-65-35;
  - f. Failed to make arrangements with all necessary emergency authorities that may be requested to provide emergency services to the Facility, in violation of OAC rule 3745-65-37(A);
  - g. Failed to label satellite accumulation containers properly and failed to keep one satellite accumulation container closed, in violation of OAC rule 3745-52-34A(C)(1) and (C)(2);
  - h. Failed to label and date containers of hazardous waste, in violation of OAC rule 3745-52-34 (A)(2) and (3);

- i. Failed to maintain and operate the Facility in a manner that minimizes the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment, in violation of OAC rule 3745-65-31; and
  - j. Failed to label a 250-gallon tote of used oil, in violation of OAC rule 3745-279-22(C)(1).
6. On July 31, 2006, Ohio EPA sent a letter to Respondent notifying Respondent of the violations referenced in Finding No. 5. of these Orders. This letter was returned to Ohio EPA on August 8, 2006 as undeliverable. On August 9, 2006, Ohio EPA resent this letter to the Facility. In this letter, Ohio also notified Respondent that due to the unlawful storage of hazardous waste, Respondent was subject to all applicable general facility standards found in OAC chapters 3745-54 and 3745-55.
7. By letter dated September 12, 2006, Respondent submitted a response to Ohio EPA's July 31, 2006 letter.
8. By letter dated October 3, 2006, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the September 12, 2006 letter, Respondent had abated the violations referenced in Finding Nos. 5.c., 5.d., 5.f. and 5.g. of these Orders.
9. By letter dated October 26, 2006 and during a site visit on November 21, 2006, Respondent submitted documentation to Ohio EPA in response to Ohio EPA's October 3, 2006 letter.
10. By letter dated December 13, 2006, Ohio EPA notified Respondent that based upon the information submitted to Ohio EPA in the October 26, 2006 letter and during the November 21, 2006 site visit, Respondent had abated the violations referenced in Finding Nos. 5.b., 5.e., 5.h., 5.i. and 5.j. of these Orders.
11. Because Ohio EPA did not observe any releases of hazardous waste at the time of the inspection referenced in Finding No. 5. of these Orders and because Respondent is continuing to use the container storage area to store hazardous wastes, the Director has determined that closure of this area is not required at this time. Therefore, no further action is required at this time to abate 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 \$40,000.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed pursuant to ORC Chapter 3734. Of this total civil penalty amount, Respondent shall pay Ohio EPA the amount of \$32,000.00, which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28, in accordance with the following schedule:
  - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - c. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - d. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - e. Within 150 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - f. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - g. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - h. Within 240 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - i. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - j. Within 300 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,665.00;
  - k. Within 330 days after the effective date of these Orders,

Respondent shall pay to Ohio EPA the amount of \$2,665.00;  
and

- I. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$2,685.00.

Each of the payments above shall be made by an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining \$8,000.00 of the total civil penalty settlement referenced in Order No. 1. of these Orders, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$8,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) in accordance with the following schedule:
  - a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - b. Within 60 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - c. Within 90 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - d. Within 120 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - e. Within 150 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - f. Within 180 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - g. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
  - h. Within 240 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;

- i. Within 270 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
- j. Within 300 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00;
- k. Within 330 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$665.00; and
- l. Within 360 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$685.00.

Each of the payments above shall be made by an official check 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 each 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 No. 2. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. of these Orders. 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  
Southeast District Office  
Division of Hazardous Waste Management  
2195 Front Street  
Logan, Ohio 43138  
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  
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 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**

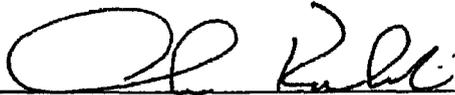
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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**

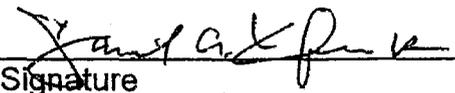


Chris Korleski  
Director

MAY 30 2007  
Date

**IT IS SO AGREED:**

**DK Manufacturing Frazeyburg, Inc.**



Signature

5/3/07  
Date

DANIEL A. KEIPER II  
Printed or Typed Name

PRESIDENT  
Title