



State of Ohio Environmental Protection Agency

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CERTIFIED MAIL

May 3, 2005

**Re: Director's Final Findings & Orders
Exemption Pursuant to R.C. 3734.02(G)
Penn Wheeling Acquisition Company, LLC**

Brian Bates, Operating Manager
Penn Wheeling Acquisition Company, LLC
2100 Griswold Street Extension
Warren, Ohio 44483

Dear Mr. Bates:

Here are the Director's Final Findings and Orders (Orders) exempting Penn Wheeling Acquisition Company, LLC from the requirements of Ohio Administrative Code rule 3745-66-76.

This rule requires Penn Wheeling to store ignitable hazardous waste at least fifty feet from the facility property line. These Orders exempt your facility from this requirement provided such waste is stored in accordance with these Orders. These Orders are effective today.

If you have any questions, do not hesitate to call Kurt Princic at (330) 425-9171.

Sincerely,

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

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Attachments

cc: Harry Sarvis, Manager, CAS, DHWM
Todd Anderson, Legal
Kurt Princic, Mgr., NEDO

Bob Taft, Governor
Bruce Johnson, Lieutenant Governor
Joseph P. Koncelik, Director

OHIO E.P.A.

MAY -3 2005

INTERESTED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

Penn Wheeling Acquisition Company, LLC : **Director's Final Findings**
2100 Griswold Street Extension : **and Orders**
Warren, Ohio 44483 :

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 Penn Wheeling Acquisition Company, LLC (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 3734.13 and 3745.01.

II. PARTIES BOUND

These Orders shall apply to and be binding upon the 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.

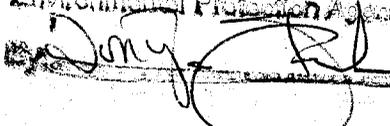
III. DEFINITIONS

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:

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

 Date 5-3-05

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director, may, by order, exempt any person generating, storing, treating, or disposing hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.
2. Respondent is the operator of the facility located at 2100 Griswold Street, Warren, Ohio (Facility). Respondent is a manufacturer of customized and stock metal closures. At the Facility, Respondent operates a printing operation that prints on metal and is a large quantity generator of hazardous waste. The Respondent generates hazardous waste including ignitable hazardous waste (D001). The ignitable hazardous waste is accumulated in containers.
3. OAC rule 3745-66-76 requires that containers holding ignitable hazardous waste or reactive hazardous waste shall be located at least 15 meters, i.e., 50 feet, from a facility's property line.
4. Respondent accumulates its hazardous waste, including ignitable hazardous waste, less than 50 feet from the property line. The accumulation area is located in a room which has been specifically constructed for the accumulation of ignitable materials. The room includes an automatic sprinkler system, three hour fire door between the room and the rest of the Facility, and 12-inch containment curbing with a capacity of 27,600 gallons. The room is located approximately 40 feet from the Facility's property line.
5. On November 30, 2004, Respondent requested an exemption from the requirement of OAC rule 3745-66-76 to locate containers holding ignitable hazardous waste at least 50 feet from the Facility's property line. By letter dated January 24, 2005, Respondent supplemented the exemption request with additional information. The request, as supplemented, included information justifying the exemption, including a letter from the local fire department supporting the exemption request.
6. Pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31, the Director has determined that Respondent's accumulation of ignitable hazardous waste less than 50 feet from the Facility property line is unlikely to adversely affect the public health or safety or the environment.

V. ORDERS

1. Respondent is hereby exempted from the requirement to store ignitable hazardous waste at least 50 feet from the Facility property line, as required by OAC rule 3745-66-76, provided that the ignitable hazardous waste is only accumulated in the room described in Finding No. 4. of these Orders and is managed in accordance with all other applicable hazardous waste laws.
2. The Director may revoke the exemption granted in Order No. 1. of these Orders for any reason, including but not limited to, a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment, and/or activities are not being conducted in accordance with these Orders.
3. The exemption from the State of Ohio's hazardous waste requirements provided by these Orders shall terminate when either one of the following events occurs:
 - a. Respondent ceases to accumulate ignitable hazardous waste at the Facility; or
 - b. The Director revokes the exemption granted to Respondent under these Orders.
4. The issuance of these Orders by the Director does not release Respondent of any liability it may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release Respondent from any obligation it has to comply with the State of Ohio's environmental laws, except as otherwise specifically provided herein.
5. These Orders do not exempt Respondent from any other local, state, or federal laws or regulations which are otherwise applicable.

VI. 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.

VII. 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.

VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived in Section X. of these Orders.

IX. WAIVER

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.

X. EFFECTIVE DATE

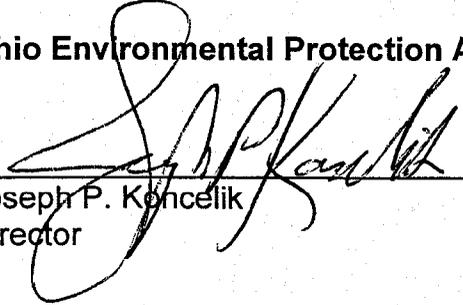
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

XI. 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 ORDERED AND AGREED:

Ohio Environmental Protection Agency



Joseph P. Koncek
Director

May 3, 2005
Date

IT IS SO AGREED:

Penn Wheeling Acquisition Company, LLC

Brian Bates

Signature

April 15, 2005

Date

BRIAN BATES

Printed or Typed Name

Operations Manager

Title