

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

P. Kay Metal, Inc.
2448 East 25th Street
Los Angeles, California 90058

ID No. CAL000024110

Respondent.

Docket HWCA 20114249

CONSENT ORDER

Health and Safety Code
Section 25187

1. INTRODUCTION

1.1. Parties. The California Department of Toxic Substances Control (Department) and P. Kay Metal, Inc. (Respondent) enter into this Consent Order (Order) and agree as follows:

1.2. Site. Respondent stores, treats, and transports hazardous waste at the following site: 2448 East 25th Street, Los Angeles, California 90058 (Site).

1.3. Inspection. The Department inspected the Site on January 17, and 18, 2012.

1.4. Authorization Status. The Department has authorized the Respondent to store, treat, and transfer hazardous waste pursuant to a Standardized Hazardous Waste Facility Permit issued on October 31, 2009. .

1.5. Jurisdiction. Health and Safety Code, section 25187, authorizes the Department to order action necessary to correct violations and to assess a penalty when the Department determines that any person has violated specified provisions of the Health and Safety Code or any permit, rule, regulation, standard, or requirement issued or adopted pursuant thereto.

1.6. Full Settlement. This Order shall constitute full settlement of the violations alleged below. The Parties, and each of them, agree that this Order, and all of the terms contained

herein, are fair, reasonable, and in the public interest. By agreeing to this Order, the Department does not waive any right to take other enforcement actions except as specifically provided in this Order.

1.7. Hearing. Respondent waives any and all rights to a hearing in this matter.

1.8. Admissions. Respondent admits the violations as alleged in Section 2 below.

2. VIOLATIONS ALLEGED

2.1. The Department alleges the following violations:

2.1.1. Respondent violated Health and Safety Code section 25201(a), California Code of Regulations, title 22, section 66270.30 and Hazardous Waste Facility Permit Attachment "A", Part IV, in that on or about January 17, 2012, respondent failed to comply with the container storage requirement by stacking a container with the capacity of more than 55 gallons on top of another container, to wit: a steel bin with 4,000 pounds (approx.. 200 gallons) capacity was stacked on top of another steel bin at the hazardous waste storage unit (HWS-A).

2.1.2. Respondent violated Health and Safety Code section 25201(a), California Code of Regulations, title 22, section 66270.30, and Hazardous Waste Facility Permit Attachment "A", Part V, in that on or about January 18, 2012, Respondent failed to measure, sample and analyze the exhaust emissions of the stack that serves as the air pollution control system, to wit: no analytical results were submitted to the Department in the past two years.

2.1.3. Respondent violated California Code of Regulations, title 22, section 66264.73 (b), in that on or about January 18, 2012, respondent failed to record the transfer, treatment and storage for the hazardous wastes received, to wit: hazardous waste accompanied by

manifest 000495115 FLE, received on January 13, 2012, was not recorded in the operating records.

3. SCHEDULE FOR COMPLIANCE

3.1. Respondent shall comply with the following:

3.1.1. Effective immediately, Respondent shall not stack a container with more than 55 gallons capacity on top of another container.

3.1.2. Effective immediately, Respondent shall measure, sample and analyze the exhaust emissions of the stack that serves as the air pollution control system and submit analytical results to DTSC and the SCAQMD within 30 days of completing the test analysis.

3.1.3. Respondent has corrected the violation set forth in 2.1.3.

3.1.4. Respondent shall make all payments at the time(s) and in accord with any other conditions set forth in Section 5 (Penalty) below.

4. OTHER PROVISIONS

4.1. Liability. Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take such further actions as are necessary to protect public health or welfare or the environment.

4.2. Penalties for Noncompliance. Failure to comply with the terms of this Order may subject Respondent to costs, penalties and/or damages, as provided by Health and Safety Code, section 25188, and other applicable provisions of law.

4.3. Parties Bound. This Order shall apply to and be binding upon Respondent and its

officers, directors, agents, employees, contractors, consultants, receivers, trustees, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

4.8. Integration. This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this Order.

5. PENALTY

5.1. Respondent shall pay the Department the total sum of \$5,500 as a penalty.

5.2. Payment of \$5,500 specified in paragraph 5.1 is due in two installments.

Respondent shall pay the Department a first installment of \$2,750.00 on or before July 1, 2012. Respondent shall pay the second and final installment of \$2,750.00 on or before December 1, 2012.

5.3. Respondent's check(s) shall be made payable to Department of Toxic Substances Control, shall identify the Respondent and Docket Number, as shown in the caption of this case, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control
Accounting Office
1001 "I" Street, 21st floor
P. O. Box 806
Sacramento, California 95812-0806

A photocopy of the check(s) shall be sent to:

Mukul Agarwal
Supervising Hazardous Substances Scientist
Enforcement & Emergency Response Program
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

and

Debra Schwartz
Senior Staff Counsel
Office of Legal Affairs
Department of Toxic Substances Control
9211 Oakdale Avenue
Chatsworth, California 91311

5.4. If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code, section 25360.1, and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

6. EFFECTIVE DATE

6.1. The effective date of this Order is the date it is signed by the Department.

Dated: June 18, 2012

Original signed by Larry Kay, President
Larry Kay, President
P. Kay Metal, Inc.
Respondent

Dated: June 28, 2012

Original signed by Mukul Agarwal
Mukul Agarwal, Supervisor HSS I
Enforcement and Emergency Response
Department of Toxic Substances Control