UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 2 0 2000

REPLY TO THE ATTENTION OF WC-15J

CERTIFIED MAIL P 298 832 515
RETURN RECEIPT REQUESTED

Mr. Rob Speas
Franklin Power Products
400 Forsythe Street
Franklin, Indiana 46131

Subject: Franklin Power Products
Industrial User of City of Franklin POTW
Franklin, Indiana
Order Pursuant to Sections 308 and
309(a) of the Clean Water Act
Docket No. V-W-00-AO-14

Dear Mr. Speas:

Enclosed herewith is the above-referenced Order issued to Franklin Power Products for noncompliance with Section 307 of the Clean Water Act and the implementing regulations of 40 C.F.R. Part 403.

Compliance with the terms of the Order is required within the time period specified in the Order. Compliance with the Order does not relieve Franklin Power Products from further enforcement action pursuant to Section 309 of the Clean Water Act.

Please send your written responses to the addresses specified in the Order. If you should have any questions concerning this matter, please contact James Coleman of my staff at (312) 886-0148.

Sincerely yours,

for Jo Lynn Traub
Director, Water Division

Enclosures

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cc: Bill Blue
Office of Enforcement Section
Indiana Department of Environmental Management

Reggie Baker Jr., Supervisor
Pretreatment & Urban wet weather Section
Office of Water Management
Indiana Department of Environmental Management

Rick Littleton, Supervisor
Franklin Municipal WWTP
796 South State Street
Franklin, Indiana 46131

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	**DOCKET NO: V-W-00-AO- 14**
FRANKLIN POWER PRODUCTS FRANKLIN, INDIANA	)	
INDUSTRIAL USER	)	
PROCEEDINGS UNDER SECTIONS 308 AND 309(a) OF THE CLEAN WATER ACT, AS AMENDED	)	**FINDINGS OF VIOLATIONS AND ORDER FOR COMPLIANCE**

The Director of the Water Division, United States Environmental Protection Agency (USEPA), Region 5, issues these Findings and this Order under Sections 308 and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318, and 1319(a). The Administrator of USEPA has delegated the authority to issue these Findings and Order to the Regional Administrator, Region 5, who has redelegated that authority to the undersigned.

FINDINGS

1. Franklin Power Products Inc. (FPP) is a corporation and thus a "person" as defined by Section 502(5) of the CWA.

2. FPP owns and operates a manufacturing facility located at 400 N Forsythe Street, Franklin, Indiana, which remanufactures diesel and gasoline engines. FPP 's manufacturing processes include disassembling, chemical etching, machining, and reassembling.

3. FPP discharge wastewater through outfall 001 to the Franklin Publicly Owned Treatment Works (Franklin POTW) from the following sources:

Source	Flow(GPD)
Process Wastestream #1 :	22,670(4)
Process Wastestream #2:	100(5)
Sanitary:	3,750
Total Flow through outfall 001(end-of pipe):	26,520

4. Process wastestream #1 is wastewater generated from contact cooling water used while testing the engines.

5. Process wastestream #2 is wastewater generated from chemical etching and cleaning operations. Parts made of steel, aluminum, and cast iron are: (i) cleaned in high pH wash tank; (ii) rinsed; (iii) put in a degreaser tank; (iv) derusted using a high pH solution; (v) chemically etched with sulfamic acid; and (vi) dipped in a rust preventative solution. The parts are cleaned again in separate high pH tanks and rinsed as they are being remanufactured.

6. FPP's wastewater discharges contain pollutants as defined in 33 U.S.C. § 1362 and measured as oil & grease(O & G), total recoverable zinc (Zn), total recoverable lead (Pb), and total recoverable copper (Cu).

7. FPP is an "industrial user (IU)" as defined at 40 C.F.R. § 403.3(h) because it is a non-domestic source regulated under Section 307(b) which introduces pollutants into a POTW.

8. FPP is a significant IU as defined in 40 C.F.R. 403.3(t)(i).

9. The Franklin POTW, owned and operated by the City of Franklin, Indiana, collects and treats wastewater from domestic, commercial and industrial sources. National Pollutant Discharge Elimination System (NPDES) Permit No. IN0021181 authorizes the Franklin POTW to discharge pollutants from its plant into Young's Creek, a tributary to Sugar Creek, a tributary to Driftwood River, which is a "navigable water" of the United States as defined in Section 502(7) of the CWA, 33 U.S.C. § 1362(7).

10. The City of Franklin adopted the "Franklin POTW Sewer Use Ordinance no. 98-7, on February 23,1998, to control pollutants contributed by users and to ensure renewed and continued compliance with its NPDES permit and sludge use and disposal practices in accordance with 40 CFR 403.

11. 40 C.F.R. § 403.12(a) defines "control authority" as (1) the publicly owned treatment works (POTW) if the POTW's submission for its pretreatment program, defined in 40 C.F.R. § 403.3(o), has been approved according to the requirements of 40 C.F.R. § 403.11; or (2) the Regional Administrator of USEPA if the submission has not been approved.

12. The Franklin POTW does not have a pretreatment program that has been approved according to 40 C.F.R. § 403.11, therefore the control authority is the Regional Administrator of USEPA, Region 5.

13. FPP is regulated as a new source as defined in 40 C.F.R. 403.3(k)(1), because FPP began operations after August 31, 1982, the publication of the proposed pretreatment standards for metal finishers.

14. FPP's discharges are regulated by federal categorical pretreatment standards at 40 C.F.R. § 433.17 which govern discharges to POTWs from new source metal finishing operations, and by the General Pretreatment Standards for Existing and New Sources of Pollution at 40 C.F.R. Part 403.

15. As per the memorandum of understanding between the USEPA and the Indiana Department of Environmental Management(IDEM), IDEM will issue permits to IU's that discharge to POTW's without an approved Pretreatment Program.

16. IDEM issued an Industrial Wastewater Pretreatment Permit No. INP000172 to FPP (FPP's IU permit) authorizing FPP to discharge its wastewater from outfall 001 into the Franklin POTW under the terms and conditions of FPP's IU permit. FPP 's IU permit was originally issued on March 5, 1998, became effective April 1, 1998, and expires on January 31, 2003. FPP's current IU permit was reissued January 1, 2000, became effective February 1, 2000, and expires on December 13, 2004.

17. FPP's March 5, 1998, IU permit prohibits FPP from discharging the following pollutants from outfall 001 to the Franklin POTW in excess of the following effluent limits:

	Discharge Limits, mg/l	
Pollutant	**Monthly Average**	**Daily Maximum**
Oil & Grease	N/A	100
Zinc, Total Recoverable	1.27	2.24
Lead, Total Recoverable	0.37	0.59
Copper, Total Recoverable	1.78	0.28

IDEM's briefing memo indicates that these limits were based on the categorical pretreatment standards set forth at 40 C.F.R. §433.17, the combined wastestream formula, and the terms and conditions set forth in the POTW's sewer use ordinance, No. 98-7.

18. FPP's January 1, 2000, IU permit prohibits FPP from discharging the following pollutants from outfall 001 to the Franklin POTW in excess of the following effluent limits:

	Discharge Limits, mg/l	
Pollutant	**Monthly Average**	**Daily Maximum**
Oil & Grease	N/A	150
Zinc, Total Recoverable	1.27	2.00
Lead, Total Recoverable	0.37	0.13
Copper, Total Recoverable	1.78	0.30
Chromium, Total Recoverable	1.48	2.38

19. Monthly Discharge Monitoring Reports (DMRs) submitted by FPP indicate that its discharges to the Franklin POTW through outfall 001 from April 1998 through May 2000 exceeded the monthly average and daily maximum effluent limitations set forth in its IU permit for oil & grease, total recoverable zinc, total recoverable lead, total recoverable copper and total recoverable chromium, as shown in Attachment A.

20. 40 C.F.R. 403.5(d) states that the limits developed in paragraph 17 and 18 above shall be deemed pretreatment standards.

21. Section 307(d) of the CWA, 33 U.S.C. § 1317(d), prohibits the owner or operator of any source from operating in violation of a pretreatment standard.

22. Section 309 of the CWA authorizes the Administrator to issue a compliance order or to commence a civil action for appropriate relief to any person who is in violation of the CWA.

ORDER

BASED ON THESE FINDINGS, the Director, Water Division, Region 5, **HEREBY ORDERS:**

1. Within 30 calendar days of receiving this Order, FPP must achieve and maintain compliance with the terms, conditions, and requirements of its Industrial Waste Discharge Permit No. INP000172 and with the Franklin POTW Sewer Use Ordinance No. 98-7 .

2. FPP must submit the following documents to the Director, Water Division, Region 5, USEPA, at 77 West Jackson Boulevard, Chicago, Indiana 60604, Attention: James Coleman (WC-15J), with copies to the Indiana Department of Environmental Management (IDEM), P. O. Box 6015, Indianapolis, Indiana 46206-6015, Attention: Mark Stanifer, and to Franklin Municipal Sewage Treatment Plant, 796 South State Street, Franklin, Indiana 46131, Attention: Rick Littleton, Plant Superintendent:

    a. Within 10 calendar days of receiving this Order, a written statement of FPP's intent to comply with this Order.

    b. Within 10 calendar days of receiving this Order, copies of FPP's monthly discharge monitoring reports and monthly sampling reports for the period from April 1998 to the present. FPP must submit monthly discharge monitoring reports and monthly sampling reports thereafter until ordered by USEPA to cease. These reports must be postmarked no later than the 28th day of the month following the completed monthly reporting period.

c. Within 20 calendar days of receiving this Order, a copy of a current schematic flow diagram of the total water system which is responsible for the discharge of pollutants from outfall 001 into the Franklin sewerage system. The diagram must contain the following information:

1). Show all general and industrial process areas, including the internal individual processes and waste abatement practices or waste treatment unit operations. Include any treatment unit operations that are not in use.

2). Show locations and identify all segregated influent and effluent flows (both liquids and solids), recycling lines, water softener process, boiler blowdowns, cooling water, cooling tower blowdown, steam condensates and locations of waste-treatment chemicals added along with their identities, quantities, and frequencies. Include the locations of sampling points used by FPP and the assigned sampling points or numbers.

3). On the requested schematic flow diagram, show the locations of all spent cooling water and steam condensate discharged to or by-passing the waste treatment facilities. Indicate the quantity of cooling water and steam condensate that comes in contact with the recooling medium or process materials and its treatment, if any.

4). The diagram must include sufficient information to complete a water balance.

If FPP has already submitted this information as part of a permit application, submit a copy of the complete application.

d. Within 20 calendar days of receiving this Order, copies of all correspondence (including enforcement documents) since April 1998, between FPP and IDEM, the City of Franklin, or the Franklin POTW, that relate to categorical pretreatment standards, FPP's IU permit, or the City of Franklin's Ordinance 98-7.

e. Within 30 calendar days of receiving this Order, a written detailed explanation of the reasons why FPP violated its effluent limits (Zn, Pb, Cu, Cr, and O & G) at outfall 001 as detailed in Attachments A.

f. Within 30 calendar days of receiving this Order, a detailed description of corrective actions or steps FPP has taken or intends to take to achieve compliance with the effluent limits set forth in its IU Permit and in Franklin's Ordinance 98-7. The report must summarize the additional equipment and other measures necessary to achieve consistent compliance, and the cost of such measures, both capital cost and annual operation and maintenance cost. The report must also

contain a schedule showing when FPP will implement these compliance measures.

If FPP has already provided the City of Franklin or IDEM with copies of the above documents, it need not include these materials in its submission to Franklin or IDEM.

3. If you consider any information that you submit to be confidential, you may assert a claim of business confidentiality under 40 C.F.R. part 2, subpart B, for any portion of the submitted information. Information subject to a business confidentiality claim is available to the public only to the extent allowed under 40 C.F.R. part 2, subpart B. Failure to assert a business confidentiality claim makes all submitted information available to the public without further notice.

4. FPP must submit all requested information under the signature of a person authorized to certify that the information is true and complete to the best knowledge of the certifying official after due inquiry. Knowingly providing false information, in response to this request, may be actionable under Section 308 of the Act, and 18 U.S.C. §§ 1001 and 1341. If the signatory later finds that any statement certified as true is actually false or incorrect, the signatory must notify Region 5. (See Attachment B, "Authority and Confidentiality Provisions.") The USEPA has the authority to use the information requested herein in an administrative, civil or criminal action.

Neither issuance of this Order by the USEPA nor compliance with this Order by FPP will relieve FPP of liability for any penalty, fine, remedy or sanction authorized by Section 309(b), (c), (d) or (g) of the CWA, for violations addressed in this Order or for any other violations of the CWA. The USEPA specifically reserves the right to seek any remedy authorized by Section 309(b), (c), (d) or (g) of the CWA for the violations cited in this Order.

for Jo Lynn Traub
Director, Water Division
U.S. Environmental Protection Agency
Region 5

Date Sept. 19, 2000

ATTACHMENT A
Table of Violations
Franklin Power Products Inc #1

Date	Parameter	Units	Monthly Average Permit Limit	Reported Monthly Average Value	Daily Maximum Permit Limit	Reported Daily Maximum Value	% Exceedance	Days of Violations
053198	OIL & GREASE	MG/L			100	345	245%	1
063098	OIL & GREASE	MG/L			100	261	161%	1
073198	OIL & GREASE	MG/L			100	3200	3100%	1
083198	OIL & GREASE	MG/L			100	210	110%	1
103198	OIL & GREASE	MG/L			100	133	33%	1
123198	OIL & GREASE	MG/L			100	112	12%	1
013199	OIL & GREASE	MG/L			100	178	78%	1
022899	OIL & GREASE	MG/L			100	401	301%	2
043099	OIL & GREASE	MG/L			100	124	24%	1
053199	OIL & GREASE	MG/L			100	173	73%	1
063099	OIL & GREASE	MG/L			100	103	3%	1
073199	OIL & GREASE	MG/L			100	141	41%	1
113099	OIL & GREASE	MG/L			100	189	89%	1
123199	OIL & GREASE	MG/L			100	109	9%	1
013100	OIL & GREASE	MG/L			100	110	10%	1
033100	OIL & GREASE	MG/L			150	156	4%	1
043000	OIL & GREASE	MG/L			150	388	159%	1
053198	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.340			6%	1
063098	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.900			50%	1
073198	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.320			4%	1
103198	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.440			13%	1
113098	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.340			6%	1
013199	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.670			31%	1
022899	ZINC TOTAL RECOVERABLE	MG/L	1.27	2.340	2.24	2.770	84%	2
103199	ZINC TOTAL RECOVERABLE	MG/L	1.27	3.170	2.24	4.690	150%	2
113099	ZINC TOTAL RECOVERABLE	MG/L	1.27	3.160	2.24	3.160	149%	2
123199	ZINC TOTAL RECOVERABLE	MG/L	1.27	1.560			19%	1
043000	ZINC TOTAL RECOVERABLE	MG/L	1.27	5.310	2.00	5.310	76%	2
053100	ZINC TOTAL RECOVERABLE	MG/L	1.27	5.823	2.00	12.300	78%	2

ATTACHMENT A
Table of Violations
Franklin Power Products Inc #1

Date	Parameter	Units	Monthly Average Permit Limit	Reported Monthly Average Value	Daily Maximum Permit Limit	Reported Daily Maximum Value	% Exceedance	Days of Violations
103198	LEAD TOTAL RECOVERABLE	MG/L	0.37	0.538			45%	1
113098	LEAD TOTAL RECOVERABLE	MG/L	0.37	0.396			7%	1
113099	LEAD TOTAL RECOVERABLE	MG/L	0.37	0.544			47%	1
033100	LEAD TOTAL RECOVERABLE	MG/L	0.37	0.463			25%	1
043000	LEAD TOTAL RECOVERABLE	MG/L	0.37	1.450			292%	1
053100	LEAD TOTAL RECOVERABLE	MG/L	0.37	1.334			261%	1
063098	COPPER TOTAL RECOVERABLE	MG/L			0.28	0.496	77%	1
073198	COPPER TOTAL RECOVERABLE	MG/L			0.28	0.345	23%	1
103198	COPPER TOTAL RECOVERABLE	MG/L			0.28	0.460	64%	1
22899	COPPER TOTAL RECOVERABLE	MG/L			0.28	0.321	15%	1
113099	COPPER TOTAL RECOVERABLE	MG/L			0.28	0.461	65%	1
043000	COPPER TOTAL RECOVERABLE	MG/L			0.30	0.974	225%	1
053100	COPPER TOTAL RECOVERABLE	MG/L			0.30	3.360	1020%	1
053100	CHROMIUM TOTAL RECOVERABLE	MG/L			2.38	3.890	63%	1
								51

Attachment

AUTHORITY AND CONFIDENTIALITY PROVISIONS

Authority

Information requests are made under authority provided by Section 308 of the Clean Water Act, 33 U.S.C. 1318. Section 308 provides that: "Whenever required to carry out the objective of this Act, ...the Administrator shall require the owner or operator of any point sources to (i) establish and maintain such records, (ii) make such reports, (iii) install, use and maintain such monitoring equipment and methods (including where appropriate, biological monitoring methods), (iv) sample such effluent... and (v) provide such other information as he may reasonably require; and the Administrator or his authorized representative, upon presentation of his credentials, shall have a right of entry to...any premises in which an effluent source is located or in which any records...are located, and may at reasonable times have access to and copy any records...and sample any effluents..."

Please be advised that the submission of false statements is subject to federal prosecution under 18 U.S.C. §1001 and that this or any other failure to comply with the requirements of Section 308 as requested by U.S. EPA may result in enforcement action under the authority of Section 309 of the Clean Water Act, which provides for specified civil and/or criminal penalties.

Confidentiality

U.S. EPA regulations concerning confidentiality and treatment of business information are contained in 40 CFR Part 2, Subpart B. Information may not be withheld from the Administrator or his authorized representative because it is viewed as confidential. However, when requested to do so, the Administrator is required to consider information to be confidential and to treat it accordingly, if disclosure would divulge methods or processes entitled to protection as trade secrets (33 U.S.C. §1318(b) and 18 U.S.C. §1905), except that effluent data (as defined in 40 CFR §2.302(a)(2)) may not be considered by U.S. EPA as confidential.

The regulations provide that one may assert a business confidentiality claim covering part or all of any trade secret information furnished to U.S. EPA at the time such information is provided to the Agency. The manner of asserting such claims is specified in 40 CFR §2.203(b). In the event that a request is made for release of information covered by such claim of confidentiality or the Agency otherwise decides to make determination as to whether or not such information is entitled to such confidential treatment, notice will be provided to the claimant prior to any release of the information. However, if no claim of confidentiality is made when information is furnished to U.S. EPA, any information submitted to the Agency may be made available to the public without prior notice.

Note: This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.