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BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Martin Diesel, Inc.
27809 County Road 424
Defiance, Ohio 43512

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.

By: Amy Vassiter Date: 2-26-15

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Martin Diesel, Inc. (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 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. Pursuant to ORC § 3734.02(G) and Ohio Administrative Code (OAC) rule 3745-50-31, the Director, may, by order exempt any person generating, collecting,

storing, treating, disposing of, or transporting hazardous wastes in such quantities or under such circumstances that, in the determination of the director, are unlikely to adversely affect the public health or safety or the environment, from any requirement to obtain a hazardous waste facility installation and operation 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, 41 U.S.C. § 6921 et seq., as amended.

2. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A)

3. Respondent operates a manufacturing facility that builds custom generators which is located at 27809 County Road 424, Defiance, Defiance County, Ohio (Facility) and has been assigned U.S. EPA ID number OHR000180604.

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 normally generates hazardous waste in amounts of less than 100 kilograms per month, commonly referred to as a conditionally exempt small quantity generator of hazardous waste, and is subject to the requirements found in OAC rule 3745-51-05. The hazardous wastes generated by Respondent at the Facility includes spent solvent/paint waste (D001, D007, D035, F003, F005), spent mineral spirits (D001) and spent carburetor cleaner (F002) as described in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31. Respondent is also a used oil generator as described in OAC rule 3745-279-20.

5. On October 10, 2013, Ohio EPA conducted a complaint investigation. The complaint alleged that Respondent was discharging waste antifreeze down the drain and disposing of used oil on a parking lot at the Facility. At the time of the investigation, Ohio EPA did not discover any evidence of the alleged activities of antifreeze being poured down the drain or of used oil being disposed on the parking lot. However, Ohio EPA observed four to five unlabeled 55-gallon drums of hazardous waste, an unlabeled 250-gallon tank of used oil and eight unlabeled 55-gallon drums of used oil.

6. In a Notice of Violation letter (NOV) dated October 31, 2013, Ohio EPA notified Respondent that it failed to label the used oil tank and 55-gallon drums of used oil with the words "Used Oil," in violation of OAC rule 3745-279-22(C)(1). In addition, Ohio EPA requested information regarding the hazardous waste drums at the Facility.

7. By electronic mail on November 4, 2013, Respondent acknowledged the receipt of the October 31, 2013, NOV from Ohio EPA.

8. On November 7, 2013, Ohio EPA conducted a compliance evaluation inspection at the Facility. During this inspection, Ohio EPA discovered additional 55-gallon drums of hazardous waste at the Facility. While reviewing Respondent's records, Ohio EPA determined that in approximately March, 2010 Respondent accumulated greater than 1,000 kilograms of hazardous waste onsite. Therefore, in accordance with OAC rule 3745-51-05, Respondent, at a minimum, became subject to the requirements of OAC rule 3745-52-34(D), including the prohibition on accumulating hazardous waste on-site for greater than 180 days without a hazardous waste installation and operation permit. Ohio EPA also discussed the October 31, 2013, NOV with Respondent.

9. As a result of the November 7, 2013, compliance evaluation inspection, Ohio EPA determined Respondent, *inter alia*;

   a. Established and operated a hazardous waste storage facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F). Respondent stored ten, 55-gallon drums of spent solvent/paint waste (D001, D007, D035, F003, F005) and one 55-gallon drum of spent carburetor cleaner (F002) for greater than 180 days. At least six of the drums had exceeded the 180 days as early as September 2010. These drums were stored outside on a gravel area at the Facility;

   b. Failed to evaluate the spent solvent/paint waste and the spent carburetor cleaner to determine if these wastes were hazardous wastes, in violation of OAC rule 3745-52-11;

   c. Failed to obtain a U.S. EPA ID number, in violation of OAC rule 3745-52-12;

   d. Failed to provide proper container management for the drums of hazardous waste spent solvent/paint waste and hazardous waste spent carburetor cleaner, in violation of OAC rules 3745-52-34(C)(1)(a), 3745-52-34(C)(1)(b), and 3745-52-34(D)(4);

   e. Failed to conduct weekly inspections of hazardous waste storage areas, in violation of OAC rule 3745-66-74;

   f. Failed to designate an emergency coordinator for the Facility, in violation of OAC rule 3745-52-34(D)(5)(a);

g. Failed to post the required emergency information next to the telephone at the Facility, in violation of OAC rule 3745-52-34(D)(5)(b);

h. Failed to ensure that all employees 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);

i. Failed to test and maintain as necessary, all facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, to assure its proper operation in time of emergency, and record the inspections in a log or summary, in violation of OAC rule 3745-65-33;

j. Failed to familiarize emergency authorities about the possible hazards associated with the type of waste handled at the Facility and the Facility layout, in violation of OAC rule 3745-65-37(A);

k. Failed to determine if hazardous waste generated at the Facility must be treated to meet Land Disposal Restriction standards, in violation of OAC rule 3745-270-07(A)(1); and

l. Failed to determine applicable hazardous waste numbers and underlying hazardous waste constituents for hazardous waste generated at the Facility, in violation of OAC rule 3745-270-09(A);

10. By electronic mail on November 7, 2013, Ohio EPA notified Respondent regarding initial observations made during the inspection. Ohio EPA provided Respondent a list of action items. By electronic mail on November 8, 2013, Respondent provided information to address the action items.

11. In a NOV dated November 27, 2013, Respondent was notified of the violations referenced in Finding No. 9. of these Orders. In this letter, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 9.b., 9.c., 9.k. and 9.l. of these Orders were abated.

12. By electronic mail on December 27, 2013, Respondent provided documentation to address the violations referenced in Findings Nos. 7. and 9. of these Orders. This documentation included photographs of labeled drums and emergency and spill control equipment, copies of inspection logs, and training materials.

13. By electronic mail on January 8, February 5, and February 24, 2014, Respondent provided additional information including manifests documenting the removal of the hazardous waste referenced in Finding No. 9.a. of these Orders.

14. By letter dated February 7, 2014, Ohio EPA notified Respondent that the violations referenced in Findings Nos. 7., 9.d., 9.e., 9.f., 9.g., 9.h., 9.i., and 9.j. of these Orders were abated.

15. Due to Respondent's establishment and operation of a hazardous waste storage facility as described in Finding No. 9.a. of these Orders, Respondent is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapter 3745-54 and 55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. To obtain a hazardous waste facility installation and operation permit, Respondent is required to submit "Parts A and B" of the application in accordance with OAC Chapter 3745-50.

16. The submittal of a Closure Plan for the area at the Facility where 55-gallon drums of hazardous waste were managed as described in Finding No. 9.a. of these Orders, in lieu of the submittal of an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment. The Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 66 and the substantive requirements of OAC Chapters 3745-54 and 55 including but not limited to the groundwater protection program in accordance with OAC rules 3745-54-90 through 3745-54-100. Therefore, the Director finds that the issuance to Respondent of an exemption from the requirement to submit an application for a hazardous waste facility installation and operation permit is unlikely to adversely affect the public health or safety or the environment within the meaning of ORC § 3734.02(G).

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 is hereby exempted from the requirement to submit an application for a hazardous waste facility installation and operation permit for the Facility, *provided that* Respondent complies with the following;

a. Within 30 days after the effective date of these Orders, Respondent shall submit to Ohio EPA for review and approval a Closure Plan for the gravel area at the Facility where 55-gallon drums of hazardous waste were managed as described in Finding No. 9.a. of these Orders. A copy of the Closure Plan shall be submitted in accordance with Section X. of these Orders and an additional copy submitted to Ohio EPA, Division of Environmental Response and Revitalization, Manager, Engineering Section, P.O. Box 1049, Columbus, Ohio 43216-1049;

b. This Closure Plan shall comply with the administrative requirements of OAC Chapters 3745-65 and 3745-66 and the substantive requirements of OAC Chapters 3745-54 and 3745-55, including but not limited to, the groundwater protection program in accordance with OAC rules 3745-54-90 through 54-100. The Closure Plan is subject to approval by Ohio EPA. If Ohio EPA does not approve the Closure Plan and provides Respondent with a written statement of deficiencies, Respondent shall submit a revised Closure Plan for approval addressing the deficiencies within 30 days of receiving such written statement. If Ohio EPA modifies the Closure Plan, the modified Closure Plan becomes the approved plan. Upon Ohio EPA's written approval of the Closure Plan, Respondent shall implement the approved Closure Plan in the manner and pursuant to the time frames set forth in the approved Closure Plan and OAC rules 3745-55-13/3745-66-13;

c. Within 30 days after approval of the Closure Plan pursuant to Order No. 1.a., Respondent shall submit a closure cost estimate and documentation demonstrating that Respondent has established financial assurance and liability coverage for the areas of the Facility subject to closure, in accordance with OAC rules 3745-55-42 through 3745-55-47; and

d. Within 60 days after completion of closure, Respondent shall submit certification of closure to Ohio EPA in accordance with OAC rules 3745-55-15. Ohio EPA's acceptance of the closure certification shall abate the violation referenced in Finding No. 9.a. of these Orders.

2. Respondents shall pay to Ohio EPA the amount of $10,250.00 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 the amount of $7,687.50 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 $7,687.50. 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 and the Facility. *A copy of this check shall be sent to Ohio EPA Division of Materials and Waste Management, Supervisor, Administrative Processing Unit, P.O. Box 1049, Columbus, Ohio 43216-1049.*

b. Within 30 days after the effective date of these orders, in lieu of paying the remaining $2,562.50 of the civil penalty settlement, Respondent shall fund a Supplemental Environmental Project (SEP) by making a contribution in the amount of $2,562.50 to Richland Township, Defiance County, in care of the Jewell Volunteer Fire Department for the purchase of equipment consisting of portable scene lights, helmet mounted lights and flashlights, as specified in the letter from the Jewell Volunteer Fire Department, incorporated herein as Attachment A to these Orders. Within 30 days of funding the SEP, Respondent shall submit documentation such as a canceled check, demonstrating compliance with this Order. This documentation shall be sent to Ohio EPA, Division of Materials and Waste Management, Supervisor, Compliance Assurance Section, 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. 2.b., Respondent shall pay to Ohio EPA, within 7 days after failing to comply with Order No. 2.b., the amount of $2,562.50 in accordance with the procedures in Order No. 2.a.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Materials and Waste Management acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the obligations that have not been performed, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a e.g., corporate officer who is in charge of a principal business function of Respondent.

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 Materials and Waste Management
347 Dunbridge Road
Bowling Green, Ohio 43402-9398
Attn: DMWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Enforcement Supervisor
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
Columbus, Ohio 43215

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 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 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 right to seek corrective action at the Facility by Respondent, which right 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

Craig W. Butler
Director

FEB 25 2015
Date

IT IS SO AGREED:

Martin Diesel, Inc.

Jim Martin
Signature

26 JAN, 2015
Date

JIM MARTIN
Printed or Typed Name

PRESIDENT
Title

ATTACHMENT A

Jewell Volunteer Fire Department

P.O. Box 30037 Jewell, Ohio 43530
Phone: 419-497-2220 Fax: 419-497-5200
Chief Eric M. Flory: 419 497-2045

Mr. Martin,

Follow up to our conversation; let this correspondence confirm that the donation will be used to purchase the follow equipment:

Portable scene lights,	$535.00 each
Helmet mounted lights,	$115.00 each
Flashlights,	$160.00 each

Thank you,

Eric Flory
Fire Chief