



State of Ohio Environmental Protection Agency

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**CERTIFIED MAIL**

December 22, 2005

**Re: Director's Final Findings & Orders  
Exemption Pursuant to R.C. 3734.02(G)  
The Mahoning Paint Corporation**

Charles C. Rumberg, President  
The Mahoning Paint Corporation  
653 Jones Street  
Youngstown, Ohio 44502

Dear Mr. Rumberg:

Here are the Director's Final Findings and Orders (Orders) exempting The Mahoning Paint Corporation from the requirements of Ohio Administrative Code rule 3745-66-76.

This rule requires The Mahoning Paint Corporation 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  
Ed Lim, Manager, ERAS, DHWM  
Todd Anderson, Legal  
Kurt Princic, Mgr., NEDO  
Neil Wasilk, DHWM, NEDO

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

OHIO E.P.A.

DEC 22 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE  
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

<b>The Mahoning Paint Corporation</b>	:	
653 Jones Street	:	<u>Director's Final Findings</u>
Youngstown, Ohio 44502	:	<u>and Orders</u>

**PREAMBLE**

It is hereby agreed by and among the parties hereto as follows:

**I. JURISDICTION**

These Director's Final Finding and Orders (Orders) are issued to The Mahoning Paint Corporation (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 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 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 rule 3745-50-31 of the Ohio Administrative

to be a true and accurate copy of the  
document as filed in the records of the  
Environmental Protection Agency

*[Signature]* Date 12-22-05

Code (OAC), the Director, by order, may exempt any person generating, collecting, storing, treating, disposing of, or transporting hazardous waste 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 permit or other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to regulations promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C.A § 6921 et seq., as amended.

2. The Respondent is the owner and operator of a paint and coatings manufacturing facility located at 653 Jones Street, Youngstown, Ohio 44502 (Facility). The Facility has approximately 30,000 square feet of manufacturing space. A variety of paints and coatings are manufactured at the Facility. All the activities at the Facility are related to the manufacture and distribution of paints and coatings.
3. At the Facility, Respondent has notified as a large quantity generator of hazardous waste. Hazardous wastes generated are primarily washings and solvents from paints and coatings manufacture. Many of these wastes exhibit the characteristic of ignitability (D001, F003).
4. OAC rule 3745-66-76 requires that containers holding ignitable or reactive hazardous waste shall be located at least fifteen meters i.e., fifty feet, from the Facility's property line.
5. Respondent accumulates ignitable hazardous wastes less than fifty feet from the property boundary line in the less than ninety-day hazardous waste accumulation area. The less than ninety-day hazardous waste accumulation area consists of a fenced outdoor concrete pad approximately 2,500 square feet in area. No buildings are located on adjacent properties within fifty feet of the hazardous waste accumulation area. The closest adjacent property is a railroad track. Open areas at the Facility are very limited. All other possible locations at the Facility for the less than ninety-day hazardous waste accumulation area would interfere with truck and vehicle traffic and pose a greater risk of a vehicle striking a hazardous waste container.
6. On September 20, 2005, Respondent requested an exemption from the requirement of OAC rule 3745-66-76 to locate containers holding ignitable wastes at least fifty feet from the Facility's property line. This request included information justifying the request and documentation that accumulation of ignitable hazardous wastes less than fifty feet from the property boundary is unlikely to adversely affect the public health or safety or the environment. Respondent supplemented the September 20,

2005 exemption request with a November 7, 2005 letter from the City of Youngstown Fire Department in which the fire chief stated, in part, that the less than ninety-day hazardous waste accumulation area is the most logical and safe location on Respondent's property.

7. Pursuant to ORC § 3734.02 (G) and OAC rule 3745-50-31, the Director has determined that the Respondent's accumulation of ignitable hazardous wastes less than fifty feet from the property boundary 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 wastes at least fifty feet away from the Facility boundary, as required by OAC rule 3745-66-76 as long as the ignitable wastes are managed in the less than ninety-day hazardous waste accumulation area referenced in Finding No. 5. of these Orders and in accordance with all other applicable hazardous waste rules.
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 the 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 wastes at the Facility;  
or
  - b. The Director revokes the exemption granted to the Respondent under these Orders.
4. The issuance of these Orders by the Director does not release the 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 the Respondent of 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 the 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 reserve all rights, privileges and causes of action, except as specifically waived in Section IX 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 Ohio Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such 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**

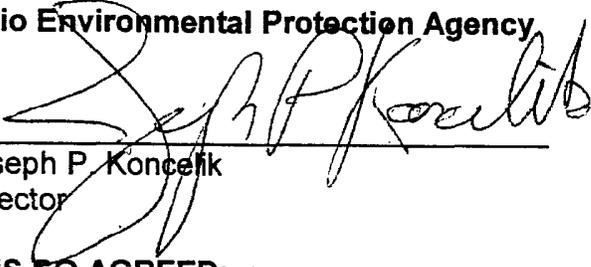
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

**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 SO ORDERED AND AGREED:**

**Ohio Environmental Protection Agency**

  
\_\_\_\_\_  
Joseph P. Konecik  
Director

December 22, 2005  
Date

**IT IS SO AGREED:**

**The Mahoning Paint Corporation**

  
\_\_\_\_\_  
Signature

12.12.05.  
Date

CHARLES C. RUMBERG.  
Printed or Typed Name

President  
Title