

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

American Metal Coatings, Inc.
1088 Ivanhoe Road
Cleveland, Ohio 44110

Director's Final
Findings and Orders

Respondent

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 American Metal Coatings, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code §§ 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 in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the regulations promulgated thereunder.

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: Derek Lassiter Date: 4-7-09

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A) and is authorized to do business in Ohio.
2. Respondent operates a metal plating facility located at 1088 Ivanhoe Road, Cleveland, Ohio 44110 (Facility).
3. 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 is a large quantity generator of hazardous waste and has been assigned hazardous waste generator identification number OHO000147868. The hazardous wastes (D002, D007 & D008) generated by Respondent at the Facility are the result of plating operations.
4. On May 24, 2007, Ohio EPA conducted a compliance evaluation inspection at Respondent's Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Stored at least 23 containers (drums and totes) of hazardous waste, for at least four years, in an area at the Facility known as the "back back room", in violation of ORC § 3734.02(E) and (F);
 - b. Failed to properly characterize the containers of hazardous waste located at the Facility, in violation of OAC rule 3745-52-11;
 - c. Failed to properly design and install the tank system, in violation of OAC rule 3745-66-92;
 - d. Failed to provide secondary containment for the tank system, in violation of OAC rule 3745-66-93;
 - e. Failed to inspect the tank system daily, in violation of OAC rule 3745-66-95;
 - f. Failed to label hazardous waste containers with the words "hazardous waste", in violation of OAC rule 3745-52-34(A)(3);
 - g. Failed to label containers of hazardous waste with an accumulation date, in violation of OAC rule 3745-52-34(A)(2);

- h. Failed to properly manage hazardous waste in containers which were in good condition, in violation of OAC rule 3745-66-71;
- i. Failed to maintain adequate aisle space in the "back back room", in violation of OAC rule 3745-65-35;
- j. Failed to keep containers of hazardous waste closed except when adding or removing waste, in violation of OAC rule 3745-66-73(A);
- k. Failed to have spill control equipment available in the hazardous waste accumulation areas, in violation of OAC rule 3745-65-32(B);
- l. Failed to test and maintain communications, fire protection, spill control and decontamination equipment in the hazardous waste accumulation areas, in violation of OAC rule 3745-65-33;
- m. Failed to perform weekly inspections of hazardous waste accumulation areas, in violation of OAC rule 3745-65-74;
- n. Failed to properly respond to a release of used oil, in violation of OAC rule 3745-279-22(D). This violation was abated at the time of the inspection;
- o. Failed to label used oil containers with the words "Used Oil" or the equivalent, in violation of OAC rule 3745-279-22(C)(1) This violation was abated at the time of the inspection;
- p. Failed to keep a box of universal waste lamps closed except when adding or removing lamps, in violation of OAC rule 3745-273-13(D)(1);
- q. Failed to label universal waste lamps in the maintenance department with the words "Universal Waste Lamps", or "Waste Lamps", or "Used Lamps", in violation of OAC rule 3745-273-14(E);
- r. Failed to have a system for marking the time that Universal waste lamps have been stored on site, in violation of OAC rule 3745-273-15(C);
- s. Failed to properly train employees in the proper handling and management of universal waste, in violation of OAC rule 3745-273-16;
- t. Failed to properly update the contingency plan to reflect changes in emergency coordinators and processes or hazardous waste generated at the Facility, in violation of OAC rule 3745-65-54;

- u. Failed to have a current list of names, addresses and phone numbers of all persons qualified to act as emergency coordinators or a list and the location of all emergency equipment at the Facility, in violation of OAC rules 3745-65-52(E) and (F);
 - v. Failed to properly train facility personnel in the management and handling of hazardous waste, in violation of OAC rule 3745-65-16; and
 - w. Failed to maintain and operate the facility in a manner that will minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste, in violation of OAC rule 3745-65-31.
5. By letter dated July 9, 2007, Ohio EPA notified Respondent of the violations noted in Finding No. 4. of these Orders.
 6. By letter dated August 15, 2007, Respondent submitted information in response to Ohio EPA's July 9, 2007 the letter.
 7. By facsimiles dated October 17, 2007, Chemtron Corporation and Envirite, Inc. submitted waste profiles for waste generated at the Facility.
 8. By letter dated October 19, 2007, Respondent submitted a draft Preparedness, Prevention and Contingency plan for the Facility.
 9. By letter dated October 25, 2007, Ohio EPA notified Respondent that Respondent had abated the violations noted in Finding Nos. 4 c., d., e., f., g., h., i., j., k., l., m., p., q., r., and s. of these Orders.
 10. By letter dated November 29, 2007, Respondent submitted information in response to Ohio EPA's October 25, 2007 letter.
 11. By letter dated December 5, 2007, Respondent submitted a revised draft Preparedness, Prevention and Contingency plan for the Facility.
 12. By letter dated April 2, 2008, Ohio EPA notified Respondent that Respondent had abated the violations noted in Finding Nos. 4 b., t., v., and w. of these Orders.
 13. By letter dated May 5, 2008, Respondent notified Ohio EPA that all agencies specified in the Preparedness, Prevention and Contingency plan had been notified.
 14. By letter dated July 29, 2008, Ohio EPA notified Respondent that Respondent had abated the violation noted in Finding No. 4.u. of these Orders.

15. Respondent stored hazardous waste without a permit in violation of ORC sections 3734.02(E) and (F), therefore, Respondent also violated numerous rules found in Ohio Administrative Code Chapters 3745-50, 3745-54 and 3745-55, in addition to the violations referenced in Finding No. 4. Respondent is also subject to all general facility standards found in OAC Chapters 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.
16. Although Ohio EPA observed some leaking containers of hazardous waste in the "back back room" referenced in Finding No. 4.a., the releases were to a concrete floor, the floor appeared to be in good condition, and Respondent addressed the releases when notified by Ohio EPA. Based upon the foregoing, the Director has determined that closure of the unpermitted storage area located in the "back back room" is not required at this time. Therefore, no further action is required at this time to abate the ORC § 3734.02 (E) and (F) violations noted in Finding No. 4.a.

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 shall pay Ohio EPA the total amount of \$101,640.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. Of this total amount, 81,312.00 will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 in accordance with the following schedule:
 - a. On or before June 15, 2009, Respondent shall pay to Ohio EPA the amount of \$10,164.00;
 - b. On or before September 15, 2009, Respondent shall pay to Ohio EPA the amount of \$10,164.00;
 - c. On or before December 15, 2009, Respondent shall pay to Ohio EPA the amount of \$10,164.00;
 - d. On or before March 15, 2010, Respondent shall pay to Ohio EPA the amount of \$10,164.00;
 - e. On or before June 15, 2010, Respondent shall pay to Ohio EPA the amount of \$10,164.00;

- f. On or before September 15, 2010, Respondent shall pay to Ohio EPA the amount of \$10,164.00;
- g. On or before December 15, 2010, Respondent shall pay to Ohio EPA the amount of \$10,164.00; and
- h. On or before March 15, 2011, Respondent shall pay to Ohio EPA the amount of \$10,164.00;

Payment shall be made by checks made payable to "Treasurer, State of Ohio". The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders.

- 2. In lieu of paying the remaining \$20,328.00 of civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of \$20,328.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD). Respondent shall make the payments in accordance with the following schedule:
 - a. On or before June 15, 2009, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - b. On or before September 15, 2009, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - c. On or before December 15, 2009, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - d. On or before March 15, 2010, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - e. On or before June 15, 2010, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - f. On or before September 15, 2010, Respondent shall pay to Ohio EPA the amount of \$2,541.00;
 - g. On or before December 15, 2010, Respondent shall pay to Ohio EPA the amount of \$2,541.00; and
 - h. On or before March 15, 2011, Respondent shall pay to Ohio EPA the amount of \$2,541.00.

Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio". Each of the official checks shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with letters identifying Respondent. A copy of each check shall be submitted in accordance with Section X. of these Orders, and an additional copy of each check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent fail to make a scheduled payment as described in Orders Nos. 2.a. through 2.h. of these Orders, Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1. of these Orders. A copy of each check shall be submitted in accordance with section X. of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the official checks required by Section V. of these Orders.

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
Northeast District Office
Division of Hazardous Waste Management
2110 East Aurora Road
Twinsburg, Ohio, 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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 closure and corrective action at the Facility 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 closure or 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 rights to seek closure and corrective action at the Facility, which rights 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



Chris Korleski
Director

April 7, 2009

Date

IT IS SO AGREED:

American Metal Coatings, Inc.

K. V. Dotsikas
Signature

3-9-2009
Date

Konstantinos V. Dotsikas
Printed or Typed Name

Owner / pres
Title