

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

OHIO E.P.A.
NOV 14 2002
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

**MAASS-Midwest Mfg. Inc.
19710 State Route 12
Arcadia, Ohio 44804**

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**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 MAASS-Midwest Mfg. Inc. ("Respondent"), pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under § 3734.13 and § 3745.01 of the Ohio Revised Code ("ORC").

II. PARTIES BOUND

These Orders shall apply to and be binding upon Respondent, its assigns and successors in interest. No changes in ownership relating to the Facility will in any way alter Respondent's responsibilities under these Orders. Respondent's obligations under these Orders may be altered only by the written approval of the Director of Ohio EPA.

III. DEFINITIONS

1. Unless otherwise stated, all terms in these Orders shall have the same meaning as used in Chapter 3734. of the ORC and the regulations promulgated thereunder.
2. The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings of fact:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code ("OAC") rule 3745-50-10(A).
2. Respondent owns and operates a brass castings manufacturing facility located at 19710 State Route 12, Arcadia, Hancock County, Ohio 44804 ("Facility"). Respondent was incorporated to do business in the State of Ohio on December 15, 1994. On February 26, 1993, Respondent received hazardous waste generator identification number OHD982642571 (operating under the name Midwest Dicken Foundry) from the United States Environmental Protection Agency as a large quantity hazardous waste generator:
3. At the Facility, Respondent generates or has generated "hazardous waste" as that term is defined in ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03, including lead-contaminated foundry sand (hazardous waste code D008).
4. On January 5, 2000, Ohio EPA conducted a compliance evaluation inspection at the Facility, and determined that Respondent had:
 - a. Stored D008 lead contaminated foundry sand for greater than 90 days without a hazardous waste storage permit, in violation of ORC §§ 3734.02(E) and (F);
 - b. Failed to develop and maintain a closure plan, in violation of OAC rule 3745-66-12;
 - c. Failed to develop and implement hazardous waste personnel training, in violation of OAC rule 3745-65-16;
 - d. Failed to have an emergency coordinator either at the Facility or on call to respond to emergencies involving hazardous waste, in violation of OAC rule 3745-65-55;
 - e. Failed to develop and maintain a hazardous waste contingency plan, in violation of OAC rule 3745-65-51;
 - f. Failed to inspect and document inspections for emergency equipment on a weekly basis, in violation of OAC rules 3745-65-33(A) and (B);

- g. Failed to clearly label 11 containers of hazardous waste with the words "Hazardous Waste," in violation of OAC rules 3745-52-34(A)(3);
- h. Failed to place the date upon which the period of accumulation begins on each hazardous waste container, in violation of OAC rule 3745-52-34(A)(2);
- i. Failed to inspect areas where hazardous waste containers are stored, at least weekly, looking for leaks and for the deterioration caused by corrosion and other factors, in violation of OAC rule 3745-66-74;
- j. Failed to mark hazardous waste containers located near the point of generation (satellite accumulation areas) with the words "Hazardous Waste" or with other words identifying the contents of the containers and with the date the excess amount began accumulating, in violation of OAC rules 3745-52-34(1) and (2); and
- k. Failed to keep hazardous waste containers closed at all times except when adding or removing waste, in violation of OAC rule 3745-66-73(A).

By letter dated February 16, 2000, Ohio EPA notified Respondent of the results of this inspection.

- 5. Following receipt of Respondent's March 17, 2000, letter and subsequent supplement, Ohio EPA notified Respondent by letter dated September 13, 2000 that Respondent had abated those violations from the January 5, 2000, inspection referenced in Finding Nos. 4.a., 4.d., 4.e., 4.f., 4.g., 4.h., 4.i., 4.j., and 4.k. Following an additional submittal from Respondent, Ohio EPA notified Respondent by letter dated November 13, 2000, of the abatement of the violation referenced at Finding No. 4.c.
- 6. On January 18, 2001, Ohio EPA conducted a follow-up inspection at the Facility, and determined that Respondent had:
 - a. Failed to mark all hazardous waste containers with the date upon which accumulation began, in violation of OAC rule 3745-52-34(A)(2); and
 - b. Failed to inspect emergency equipment and hazardous waste accumulation areas on a weekly basis, in violation of OAC rules 3745-65-33(A) and 3745-66-74(A), respectively.

By letter dated January 30, 2001, Ohio EPA notified Respondent of the results of this inspection.

7. By letter dated February 16, 2001, Ohio EPA notified Respondent that based upon information from the January 18, 2001 inspection, a closure or sampling and analysis plan would not be required at this time. Ohio EPA informed Respondent that the Facility remains subject to meeting the closure performance standard contained in OAC rule 3745-66-11 when the Facility closes or ceases accumulating hazardous waste, and that Respondent abated the violation referenced at Finding No. 4.b.
8. By letter dated March 5, 2001, Ohio EPA notified Respondent that Respondent had abated the violations referenced at Finding Nos. 6.a. and 6.b.

V. ORDERS

Respondent shall achieve compliance with ORC Chapter 3734. and the regulations promulgated thereunder according to the following compliance schedule:

1. Respondent shall pay to Ohio EPA the amount of fourteen thousand dollars (\$14,000) pursuant to the following schedule: Four (4) payments of \$3,500 each shall be paid to and received by, Ohio EPA on or before the following dates: The first payment shall be made within ninety (90) days after the effective date of these Orders, with the next three payments made at ninety (90) day intervals, thereafter. Said monies are in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payments shall be made by tendering a certified check for the amounts specified above, to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt and successful negotiation of the certified check required above.

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 signatory to these Orders, for any liability arising out of or relating to the operations 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. Nothing in these Orders shall be construed as waiving or compromising in any way the applicability and enforcement of any other statutes or regulations applicable to Respondent's operation of its Facility. Ohio EPA reserves all rights and privileges except as specified herein.

IX. NOTICE

All documents demonstrating compliance with these Orders, and other documents required under these Orders to be submitted to Ohio EPA, shall be addressed to:

Ohio Environmental Protection Agency
Northwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
347 North Dunbridge Road
Bowling Green, Ohio 43402

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

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

For deliveries to the building:

Christopher Jones, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
Attn: Manager, Compliance Assurance Section
122 South Front Street
Columbus, Ohio 43215

or to such persons and addresses as may hereafter be otherwise specified in writing by Ohio EPA.

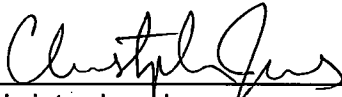
X. RESERVATION OF RIGHTS

Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal or equitable action as deemed appropriate and necessary, including seeking penalties against Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require Respondent to perform additional activities, including closure of the Facility's hazardous waste accumulation area(s) when no longer used for hazardous waste accumulation and/or in the event of further violation of storage requirements, pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of Respondent to raise any administrative, legal or equitable claim or defense with respect to such further actions which Ohio EPA may seek to require of Respondent. Nothing in these Orders shall be construed to limit the authority of Ohio EPA to seek relief for violations not addressed in these Orders.

XI. SIGNATORIES

Each undersigned representative of a signatory to these Orders certifies that he or she is fully authorized to enter into these Orders and to legally bind such signatory to this document.

IT IS SO ORDERED:



Christopher Jones
Director

11-12-02
Date

XII. WAIVER

In order to resolve disputed claims, without admission of fact, violation or liability, and, subject to Section X. of these Orders, in lieu of further enforcement action by Ohio EPA for only the violations addressed in these Orders, Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that Respondent agrees to comply with these Orders. Subject to Section

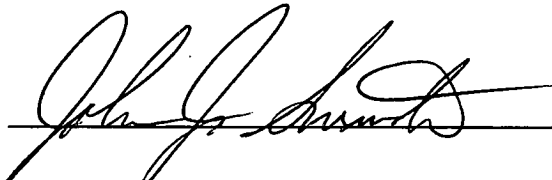
X., above, compliance with these Orders shall be a full accord and satisfaction for Respondent's liability for the violations cited herein.

Respondent hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it might have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that in the event that 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.

IT IS SO AGREED:

MAASS-MIDWEST MFG. INC.



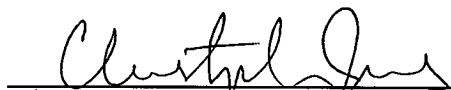
President

Title

18 Oct., 2002

Date

Ohio Environmental Protection Agency



Christopher Jones
Director

11-12-02

Date