

OHIO E.P.A.

JAN 29 2002

ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

UNOVA Industrial Automation Systems,
Inc., dba Cincinnati Machine
21900 Burbank Road
Woodland Hills, CA 91367

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 UNOVA Industrial Automation Systems, Inc., dba Cincinnati Machine (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 owns and operates a machine tools manufacturing facility located at 4701 Marburg Avenue, Cincinnati, Ohio (Facility). Respondent is a foreign corporation registered to do business in the state of Ohio on October 9, 1997.
2. Respondent notified Ohio EPA of its hazardous waste activities on January 25, 1999. Respondent was issued U.S. EPA identification number OHD001287812, which was the Facility's identification number under a previous owner and name.
3. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
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 generates hazardous waste (D001, D002, F003, F005) from painting and heat treating operations. Respondent also generates hazardous waste (D005-D011, D038, P010-P012, P106) from off-specification chemicals.
5. On October 30, 2000, and November 8, 2000, Ohio EPA conducted inspections of Respondent's Facility. As a result of these inspections, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Failed to institute a personnel training program, in violation of OAC rule 3745-65-16;
 - b. Failed to conduct weekly inspections of all Facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, and document those inspections in a log or summary, in violation of OAC rule 3745-65-33(A) & (B);
 - c. Failed to keep satellite accumulation containers holding hazardous waste closed, in violation of OAC rule 3745-66-73(A);

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- d. Failed to label satellite accumulation containers in Plant 1 and 2 with the words "Hazardous Waste", in violation of OAC rule 3745-52-34(C)(1);
- e. Failed to move containers of hazardous waste exceeding the 55 gallon threshold from the satellite accumulation area within 3 days, in violation of OAC rule 3745-52-34(C)(2);
- f. Failed to label and date the hazardous waste containers in Plant 4 with the words "Hazardous Waste" and the accumulation date, in violation of OAC rule 3745-52-34(A)(2) & (3);
- g. Failed to conduct weekly inspections of container accumulation areas, in violation of OAC rule 3745-66-74;
- h. Failed to update and maintain a contingency plan, in violation of OAC rule 3745-65-52; and
- i. Failed to contact the transporter or treatment, storage, and disposal facility within 35 days of not receiving a completed copy of manifest number 00001 and not filing an exception report with Ohio EPA within 45 days, in violation of OAC rule 3745-52-42(A)(1) & (2).

By letter dated November 22, 2000, Ohio EPA notified Respondent of the results of the October 30, 2000, and November 8, 2000 inspections.

- 6. On December 20, 2000, Ohio EPA extended the deadline for Respondent to respond to the November 22, 2000, Notice of Violation (NOV) letter to January 17, 2001.
- 7. By letter dated January 15, 2001, Respondent provided a response to Ohio EPA's November 22, 2000, NOV letter.
- 8. By letter dated April 10, 2001, Ohio EPA notified Respondent that it had abated the violations referenced in Finding Nos. 5.b through 5.i, had partially abated the violation referenced in Finding No. 5.a, and requested additional information in order to abate the remaining violation.
- 9. On June 22, June 28 and July 2, 2001, Respondent submitted documentation to Ohio EPA in order to abate Finding No. 5.a.

10. By letter dated July 23, 2001, Ohio EPA notified Respondent that it had abated the violation referenced in Finding No. 5.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 to Ohio EPA the amount of \$36,200 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. Respondent shall pay the \$36,200 civil penalty settlement in two payments pursuant to the following schedule:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$18,100.00; and
 - b. Within ninety (90) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$18,100.00.

Each of the two payments above shall be made by tendering a certified check in the stated amount to Ohio EPA, Department 631, Columbus, Ohio 43265-0631, made payable to "Treasurer, State of Ohio." A copy of each 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 checks required above.

VII. OTHER CLAIMS

Nothing contained in these Orders shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against, or as creating any rights in or liability to, any person, firm, partnership or corporation, not a signatory to these Orders.

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
Southwest District Office
Division of Hazardous Waste Management
Attn: DHWM Manager
401 East Fifth Street
Dayton, Ohio 45402-2911

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

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

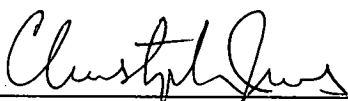
X. RESERVATION OF RIGHTS

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 hazardous waste units at the Facility, 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

JAN 29 2002

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:

UNOVA Industrial Automation Systems, Inc.

Ronald B. Budde

1/16/02

Date

VP - Finance

Title

Ohio Environmental Protection Agency

Christopher Jones

JAN 29 2002

Christopher Jones
Director

Date