

OHIO E.P.A.
DEC 20 2001
ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

J. & M. Manufacturing Co., Inc. : Director's Final
284 Railroad Street : Findings and Orders
Fort Recovery, Ohio 45846 :

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 J. & M. Manufacturing Co., 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 the Respondent, its assigns and successors in interest. No changes in ownership relating to the Facility will in any way alter the Respondent's responsibilities under these Orders. The 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 an agricultural equipment manufacturing facility located at 284 Railroad Street, Fort Recovery, Mercer County, Ohio (Facility). Respondent was incorporated to do business in the State of Ohio on June 23, 1965.
3. On August 18, 1980, Respondent notified the Ohio EPA of its hazardous waste activity and received hazardous waste generator identification number OHT400010583.
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.
5. On July 14, 2000, Ohio EPA conducted a compliance evaluation inspection at the Facility and determined that Respondent had:
 - a. Operated a hazardous waste storage facility without a permit by storing hazardous waste for greater than 180 days, in violation of ORC § 3734.02(E) and (F) and OAC rule 3745-52-34(F);
 - b. Failed to post the name and telephone number of the emergency coordinator, location of spill control equipment and the telephone number of the local fire department by the Facility's phone, in violation of OAC rule 3745-52-34(D)(5)(b);
 - c. Failed to inspect required emergency equipment on a weekly basis and to record and maintain the results in a log or summary, in violation of OAC rule 3745-65-33;
 - d. Failed to have an internal alarm or communication device immediately accessible for employees charged with the responsibility of handling hazardous waste, in violation of OAC rules 3745-65-32(B) and 3745-65-34(A);
 - e. Failed to maintain adequate aisle space in the less than 180-day hazardous waste storage area to allow unobstructed movement of emergency or spill equipment, in violation of OAC rule 3745-65-35;

- f. Failed to properly mark and label drums which contained hazardous waste in the hazardous waste storage area with the words "Hazardous Waste" and date drums of hazardous waste with the date upon which hazardous waste accumulation began, in violation of OAC rule 3745-52-34(A)(2) and (3);
 - g. Failed to properly mark and label five-gallon containers of spent solvent in the paint booths with the words "Hazardous Waste" or other words which would identify the contents of the containers, in violation of OAC rule 3745-52-34(C)(1)(b);
 - h. Failed to accumulate hazardous waste in closed containers, specifically the five-gallon containers referenced in Finding No. 5.g, in violation of OAC rule 3745-66-73(A); and
 - i. Failed to conduct and document inspections of the hazardous waste storage area, in violation of OAC rule 3745-66-74.
- 6. By letter dated August 1, 2000, Ohio EPA notified Respondent of the violations cited in Findings Nos. 5.a. through 5.i.
 - 7. On August 7, 2000, Respondent provided responses to Ohio EPA's August 1, 2000 letter.
 - 8. On August 23, 2000, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.a., 5.b., and 5.d through 5.h.
 - 9. By letter dated August 15, 2000, Respondent provided additional responses to Ohio EPA's August 1, 2000, letter.
 - 10. On October 30, 2000, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 5.c. and 5.i.
 - 11. By letters dated August 23, 2000 and October 19, 2000, Ohio EPA notified Respondent that Respondent was a large quantity generator of hazardous waste during the month of June, 2000 and therefore was required to prepare and submit a generator annual hazardous waste report for the year 2000.
 - 12. Respondent failed to prepare and submit a generator annual hazardous waste report for the year 2000 by March 1, 2001, in violation of OAC rule 3745-52-41.

13. Pursuant to Respondent's request, and review and approval by Ohio EPA, a credit was applied to the civil penalty settlement amount to account for a supplemental environmental project (SEP) being implemented at the Facility. This project includes replacing all liquid-based dip coating operations and half of the liquid-based spray coating operations with a new powder coating system as described in Attachment A. As a result of this SEP, VOCs are expected to be reduced by up to 90% and hazardous waste will be reduced by up to 15,000 pounds per year at the Facility.

V. ORDERS

The 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 \$22,000.00 in settlement of Ohio EPA's claims for civil penalties which may be assessed for noncompliance pursuant to Chapter 3734. of the ORC pursuant to the following:
 - a. Within thirty (30) days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of \$15,000.00, to be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment 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." Respondent shall submit a copy of the certified check in accordance with Section IX of these Orders;
 - b. In lieu of paying \$7,000.00 of the civil penalty, Respondent may implement the agreed upon SEP at the Facility as follows:
 - i. Within one hundred and eighty (180) days after the effective date of these Orders Respondent shall fully perform the agreed upon SEP as described in Attachment A.
 - ii. Within thirty (30) days after the completion of the SEP at the Facility, Respondent shall submit to Ohio EPA a written report, including any receipts associated with expenses and photographic documentation which demonstrates that the SEP has been implemented in accordance with this Order.
 - c. Should Respondent fail to implement the SEP in a timely manner, or fail to fully implement the SEP in the amount of at least \$132,400.00 within one

hundred and eighty (180) days after the effective date of these Orders, Respondent shall pay to the Ohio EPA the \$7,000.00 balance of the civil penalty which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment 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 this check shall be submitted in accordance with Section IX of these Orders.

VI. TERMINATION

The Respondent's obligations under these Orders shall terminate when the Respondent demonstrates in writing and certifies to the satisfaction of Ohio EPA that all obligations under these Orders have been performed and Ohio EPA's Division of Hazardous Waste Management acknowledges, in writing, Ohio EPA's acceptance of this demonstration and certification.

This certification shall be submitted by the Respondent and shall be signed by a responsible official of the Respondent. The certification shall make the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

For purposes of these Orders, a responsible official is a corporate officer who is in charge of a principal business function of the 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 signatory to these Orders, for any liability arising out of or relating to the operations of the 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 the 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

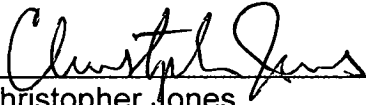
Nothing contained herein shall be construed to prevent Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking administrative, legal

or equitable action as deemed appropriate and necessary, including seeking penalties against the Respondent for noncompliance with these Orders. Nothing contained herein shall be construed to prevent Ohio EPA from exercising its lawful authority to require the Respondent to perform additional activities, including closure of the hazardous waste storage area, pursuant to ORC Chapter 3734. or any other applicable law in the future. Nothing herein shall restrict the right of the 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 the 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

DEC 20 2001
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, the Respondent agrees that these Orders are lawful and reasonable, that the times provided for compliance herein are reasonable and that the Respondent agrees to comply with these Orders. Subject to Section X., above compliance with these Orders shall be a full accord and satisfaction for the Respondent's liability for the violations cited herein.

The 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 the Respondent agree that in the event that these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, the Respondent retains the right to intervene and

participate in such appeal. In such an event, the 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:

J. & M. Manufacturing Co., Inc.



11 21 01
Date

Ohio Environmental Protection Agency



Christopher Jones
Director

DEC 20 2001
Date

Supplemental Environmental Project Questionnaire

1. *Describe the current process or operation that would be affected by implementation of the project.*

The J&M Manufacturing Company, Inc. (J&M) produces various types of grain handling equipment for the agricultural industry. One of the primary steps in the manufacturing process is the application of protective surface coatings. This is accomplished through the use of either a dipping process or a spraying process. The dipping process utilizes coatings with a high-VOC content. The nature of the process is such that entire dip tanks full of paint must be periodically disposed of when they become contaminated or out of spec. As a result, unused coatings and thinners, as well as cleaning solvents, must be disposed of as hazardous wastes. In addition, air emissions are released due to the use of these coatings and solvents.

The spraying process utilizes water-based coatings that have a lower VOC-content. The manner in which the coating is applied results in no hazardous waste being generated other than a minor amount from some equipment cleaning operations. Approximately 90% of the facility hazardous waste comes from operation of the dip tanks.

2. *Describe the proposed project. Include discussion of any changes in product design, material substitutions, equipment changes, and/or operating changes. Indicate the level of innovation associated with this project (i.e. is the technology established or is it "cutting edge?").*

J&M is undertaking a project to replace all of their liquid-based dip coating operations and half of the liquid-based spray coating operations with a new powder coating system. The system includes new application booths, spray equipment, and curing equipment. As a result of this project, J&M will ultimately be able to discontinue the use of the dip tanks and significantly reduce production in the spray booths currently in operation. This will have the net effect of eliminating over 90% of hazardous waste generated at the facility, as well as the corresponding VOC air emissions. Furthermore, the risk of spills to the environment will be minimized because liquid paints and wastes will be stored in much lower quantities on site.

While powder coating in general has been in use for many years, the technology is relatively new to the agricultural equipment industry. Historically, the large size of the products being painted dictated that liquid coatings be manually sprayed by operators in open booths. In addition, wheel bearings packed in grease could not be heated in curing ovens. However, recent advancements in the technology related to low-temperature curing have now made this project feasible.

3. *Quantify how implementation of the proposed project is expected to increase or decrease waste generation to each of the following waste streams. Briefly explain how the project would result in this increase or decrease, and how each of these waste streams will be managed.*

Hazardous Waste (prior to any treatment, such as stabilization or incineration):

- The primary source of hazardous waste is currently from waste and off-spec liquid paints used in the dip tanks. A very small quantity comes from solvent degreasing of parts.
- The powder coating system is expected to eliminate all of the paint related waste.
- Hazardous waste will be reduced by as much as 15,000 lbs/year

Air Emissions (prior to any treatment, such as a scrubber or incineration):

- The primary source of air emissions is from the VOC-based liquid paints used in the dip tanks and wet spray booths. A very small quantity comes from the solvent degreasing of parts.
- The powder coating system is expected to eliminate all of the paint related VOC emissions from the dip tanks and 50% from the wet spray booth.
- Air emissions will be reduced by as much as 20 tons VOC/year

Wastewater (prior to any treatment, such as precipitation or clarification):

- There will be no increase or decrease in wastewater generated as a result of this project.

Solid Waste (prior to any treatment, such as combustion or compaction):

- In the early stages of the project, any oversprayed powder will need to be disposed of as a non-hazardous solid waste. The quantity that will be generated is unknown. In the future, J&M will be looking at ways to potentially reuse the oversprayed powder.

4. *Quantify how implementation of the proposed project would result in conservation of resources (such as water or energy) or alternately, increased use of resources.*

The proposed powder coating system will result in an overall decrease in the amount of raw material consumed by approximately 75,000 pounds (lbs of paint vs. lbs of powder coating). There will be a small increase in natural gas usage for the low-temperature curing oven.

5. *What is the expected payback of the project? The payback period is the amount of time required for an investment to generate enough cash flow to cover the initial capital outlay for that investment.*

J&M will be able to realize an annual savings of approximately \$100,000 in raw material cost and approximately \$4,000 in hazardous waste disposal costs and related air pollution fees. The savings in hazardous waste disposal fees will be somewhat offset by the increase in solid waste and natural gas cost. Overall, the estimated payback period on this project will be two years.

6. *Please itemize all costs into general categories. See the attached Table from the "Ohio Pollution Prevention and Waste Minimization Planning Guidance Manual" for examples of costs to consider when determining the full cost of a waste stream.*

| Project Item | Cost |
|---------------------------|------------------|
| Capital equipment | \$132,400 |
| Installation | \$56,900 |
| Related building upgrades | \$10,000 |
| Employee training | \$4,000 |
| TOTAL: | \$203,300 |

7. *Were the above costs estimated by the company, a consultant, or a vendor?*

The costs above were estimated by the company, with assistance from a consultant.

8. *Has any of the equipment for the project already been purchased? Please explain.*

The majority of the equipment has been purchased and will be installed by the end of 2001. J&M will test and evaluate the new system, including the quality and performance of the coated parts, with hopes of converting all of their wet paint operations over to the powder process as soon as possible. In addition, J&M will be investigating future upgrades that may allow for such things as reuse of oversprayed powder.

9. *Has the project already been approved for funding under the company's capital improvement budget or other budget? Please explain.*

The project has already been approved for funding under the company's capital improvement budget.

10. *Explain how the inclusion of this project in the settlement will further the progress of the proposed project. Explain why previously identified projects have not been implemented.*

As can be seen in Item #6 above, the cost to implement this project are considerable. As a small company, J&M has limited resources with which to both implement this project and continue meeting existing production demands. Incorporating a financial credit for this project in the settlement will allow J&M to dedicate more resources to expediting the final conversion to this project.

There are no previously identified projects that have not been implemented.

11. *Please briefly provide any additional information that may help justify the inclusion of the proposed project in the settlement.*

With respect to the timing of this project, it is important to point out that the decision to move forward with this project was primarily based on the hazardous waste inspection performed by OEPA in August 2000. As a result, J&M became more aware of the seriousness associated with the generation and storage of large quantities of hazardous waste. Therefore, they believed it was more environmentally beneficial to reduce waste generation as soon as possible by beginning implementation of this project, rather than to delay without knowing when or if an enforcement case may arise. Had they waited until now to begin planning for this project so that it could be incorporated into the settlement in the traditional manner, an additional year's worth of hazardous waste and air emissions would be generated.