

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.

NOV 10 2016

ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Akzo Nobel Coatings, Inc.
1313 Windsor Avenue
Columbus, OH 43211

Akzo Nobel Coatings, Inc.
300 Sprowl Road
Huron, OH 44839

Respondent

**Director's Final
Findings and Orders**

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Akzo Nobel Coatings, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 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 used in these Orders shall have the same meaning as defined in ORC Chapter 3734. and the rules promulgated thereunder.

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 OAC rule 3745-50-10(A).
2. Respondent owns and operates a paint and resin manufacturing company located at 1313 Windsor Avenue, Columbus, Franklin County, Ohio (Columbus Facility). Ohio EPA has issued EPA Identification Number OHD004288890 for the Columbus Facility.
3. Respondent also owns and operates a resin and paint coatings manufacturing company located at 300 Sprowl Road, Huron, Erie County, Ohio (Huron Facility). Ohio EPA has issued EPA Identification Number OHD002946291 for the Huron Facility.
4. Respondent generates hazardous waste as that term is defined by ORC § 3734.01 and OAC rules 3745-50-10(A) and 3745-51-03. Respondent generates non-acute hazardous waste in amounts greater than 1000 kilograms and therefore is operating as a Large Quantity Generator (LQG) of hazardous waste subject to the requirements in OAC rule 3745-52-34(A) at both the Columbus Facility and the Huron Facility.

Columbus Facility

5. At the Columbus Facility, Respondent generates listed and characteristic hazardous wastes, including but not limited to, paint filter waste (D001 – ignitable, D007 – toxicity for chromium, D035 – toxicity for benzene), resin waste (D001), waste solvent cleanout (D001, D035, F003 – ignitability and toxicity, F005 – ignitability and toxicity), spent solvent (D001, D035, F005), waste paint (D001, D035), and off-specification paint (D001, D007, D035), as defined in OAC rules 3745-51-21, 3745-51-24 and 3745-51-31.
6. On September 24, 2015, Ohio EPA conducted a compliance evaluation inspection at the Columbus Facility. As a result of this inspection, Ohio EPA determined Respondent, *inter alia*:
 - a. Failed to evaluate waste to determine if the waste was hazardous waste, in violation of OAC rule 3745-52-11. The waste was stored in seven 5-gallon containers and one 1-gallon container;
 - b. Failed to label one satellite hazardous waste container with the words "hazardous waste" or other words identifying the contents, in violation of OAC rule 3745-52-34(C)(1)(b);

- c. Failed to provide annual refresher training for one of the employees that is responsible for hazardous waste management, in violation of OAC rule 3745-65-16(A)(2); and
 - d. Failed to provide a communication device for the hazardous waste generator accumulation area, in violation of OAC rule 3745-65-32(B).
7. By letter dated October 22, 2015, Ohio EPA notified Respondent of the violations at the Columbus Facility as referenced in Finding No. 6. of these Orders. Ohio EPA also notified Respondent that the violation of OAC rule 3745-52-34(C)(1)(b) referenced in Finding No. 6.b. was abated because Respondent labeled the container during the inspection.
8. By electronic mail on December 10, 2015, Respondent submitted a letter which contained information to address the violations discovered at the Columbus Facility and referenced in Finding No. 6. of these Orders. The letter stated that the waste observed by Ohio EPA at the Columbus Facility at the time of the inspection was not hazardous waste, the satellite drum of hazardous waste had been properly labeled, the employee that manages hazardous waste at the Columbus Facility was scheduled for training, and a two-way radio was provided for all employees responsible for managing hazardous waste at the Columbus Facility.
9. On December 22, 2015, January 6, January 13, January 21, and February 10, 2016, Ohio EPA attempted to contact Respondent via telephone to request additional information for the Columbus Facility regarding the violations referenced in Finding No. 6. of these Orders. Respondent was not available to speak with Ohio EPA and Ohio EPA left messages requesting that Respondent contact Ohio EPA to discuss the violations at the Columbus Facility discovered during the September 24, 2015 inspection. Respondent failed to contact Ohio EPA.
10. On February 11, 2016, Ohio EPA conducted a follow-up inspection at the Columbus Facility. During the inspection, Ohio EPA observed the same eight containers of waste referenced in Finding No. 6.a. of these Orders. However, the containers had been labeled with the words "hazardous waste" and had been dated "September 25, 2015" to indicate the date upon which the period of accumulation began. Ohio EPA also reviewed Respondent's contingency plan and observed that employees that manage hazardous waste at the Columbus Facility were equipped with communication devices. As a result of the follow-up inspection at the Columbus Facility, Ohio EPA determined Respondent *inter alia*:

- a. Stored the eight containers of hazardous waste for greater than 90 days without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F); and
 - b. Failed to update the contingency plan for the Columbus Facility to reflect personnel changes, particularly the current Emergency Coordinator information, and submit the updated plan to local emergency authorities and Ohio EPA, in violation of OAC rule 3745-65-54.
11. By electronic mail on February 12, 2016, Respondent submitted personnel training documentation for the Columbus Facility.
 12. By electronic mail on February 16, 2016, Respondent submitted manifests showing that the containers of hazardous waste stored at the Columbus Facility were shipped offsite to an authorized facility on February 12, 2016.
 13. By letter dated February 19, 2016, Ohio EPA notified Respondent of the violations at the Columbus Facility referenced in Finding No. 10. of these Orders. Ohio EPA also informed Respondent that based on the documentation submitted by Respondent and referenced in Finding Nos. 11. and 12., and observations made during the inspections, the violations referenced in Finding Nos. 6.a., 6.c. and 6.d observed at the Columbus Facility were abated.
 14. The Director has determined no further action is required by Respondent to address the violation in Finding No. 10.a. of these Orders that was observed at the Columbus Facility because there were no visible signs of releases from the containers and Respondent manifested the hazardous waste offsite to an authorized facility on February 12, 2016. Also, the containers of hazardous waste were stored in a generator accumulation area at the Columbus Facility, which Respondent will continue to use to store hazardous waste, making closure of this area in accordance with OAC rules 3745-55-10 through 3745-55-20 unnecessary at this time.

Huron Facility

15. At the Huron Facility, Respondent generates listed and characteristic hazardous wastes, including but not limited to, spent blasting debris (D006 – toxicity for cadmium), filters (D001, F003), waste resin (D001, F003), spent solvent and product distillation liquid (D001, D018, D035, F003, F005), spent caustic cleaning solution (D001, D002 – ignitability and corrosivity), and waste cleaning solvent and tank sediment (from Reactor #3, #5 and #6) (D001, D018, D035, F003, F005).

16. On November 9, 2015, Ohio EPA conducted a compliance evaluation inspection at the Huron Facility. As a result of this inspection, Ohio EPA determined Respondent, *inter alia*:
 - a. Failed to evaluate waste spent blasting debris to determine if it was hazardous waste, in violation of OAC rule 3745-52-11;
 - b. Failed to keep one satellite hazardous waste container closed except when adding or removing waste, in violation of OAC rule 3745-52-34(C)(1)(a);
 - c. Failed to label one satellite hazardous waste container with the words "hazardous waste" or other words identifying the contents, in violation of OAC rule 3745-52-34(C)(1)(b);
 - d. Failed to provided annual hazardous waste refresher training to personnel responsible for managing hazardous waste; in violation of OAC rule 3745-65-16(C);
 - e. Failed to maintain the necessary documentation for employees that received personnel training and who manage hazardous waste, in violation of OAC rule 3745-65-16(D)
 - f. Failed to provide information in the contingency plan regarding actions to be taken in response to fires, explosions or any unplanned release of hazardous waste, in violation of OAC rule 3745-65-52(A);
 - g. Failed to have a current list of emergency coordinators in the contingency plan, in violation of OAC rule 3745-65-52(D); and
 - h. Failed to provide a list of all emergency equipment, including the location, at the Facility, a physical description and an outline of the equipment's capabilities in the contingency plan, in violation of OAC rule 3745-65-52(E).
17. By letter dated January 8, 2016, Ohio notified Respondent of the violations at the Huron Facility as referenced in Finding No. 16. of these Orders. Ohio EPA also notified Respondent that the violations referenced in Finding No. 16.e. of these Orders was abated.
18. By letter dated January 27, 2016, Respondent provided information to address the violations discovered at the Huron Facility and referenced in Finding No. 16. of these Orders. This information included a statement that Respondent had sent

a sample of the sandblasting media to be analyzed to determine if it was a hazardous waste, photographs showing the container was closed and labeled, and an updated contingency plan.

19. By letter dated February 24, 2016, Ohio EPA notified Respondent that the violations identified at the Huron Facility and referenced in Finding No. 16, and that 16.b., 16.c., 16.e., 16.f., 16.g., and 16.h., of these Orders were abated.
20. By letter dated March 15, 2016, Respondent responded to Ohio EPA's February 24, 2016 letter regarding the violations at the Huron Facility. Respondent informed Ohio EPA that the spent blasting media was a hazardous waste due to cadmium (D006 – toxicity for cadmium) and also provided analytical results. In addition, Respondent provided training records documenting those personnel that manage hazardous waste and universal waste lamps at the Huron Facility had received annual hazardous waste refresher training.
21. By letter dated April 14, 2016, Ohio EPA notified Respondent that based on the documentation provided with Respondent's March 15, 2016 letter referenced in Finding No. 20. of these Orders, the violations at the Huron Facility referenced in Finding Nos. 16.a. and 16.d. of these Orders were abated. However, because the spent blasting media was identified as a hazardous waste, Ohio EPA also notified Respondent that it had violated ORC § 3734.02(F) for causing the hazardous waste spent blasting media to be sent to a municipal solid waste landfill which is a facility that is not authorized to accept hazardous waste.
22. The Director has determined no further action is required by Respondent to address the violation referenced in Finding No. 21. of these Orders that was identified at the Huron Facility because Respondent is managing the hazardous waste spent blasting material in a container that is closed and properly labeled with the words "Hazardous Waste" and has stated it will send future shipments of the hazardous waste spent blasting material to an authorized hazardous waste facility.

V. ORDERS

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

1. Within 30 days after the effective date of these Orders, Respondent shall submit to Ohio EPA an updated contingency plan for the Columbus Facility along with

documentation demonstrating the contingency plan has been distributed to the proper emergency authorities. Compliance with this order will abate the violation of OAC rule 3745-65-54 referenced in Finding No. 10.b. of these Orders.

2. Within 30 days after the effective date of these Orders, Respondent shall pay the settlement amount of \$11,400.00 which will be deposited into the environmental protection remediation fund established pursuant to ORC § 3734.281. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$11,400.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent and the Columbus Facility and Huron Facility. A copy of this check shall be sent to the Financial Program Manager, Ohio EPA, Division of Environmental Response and Revitalization, P.O. Box 1049, Columbus, Ohio 43216-1049.

VI. TERMINATION

Respondent's obligations under these Orders shall terminate when Respondent certifies in writing and demonstrates to the satisfaction of Ohio EPA that Respondent has performed all obligations under these Orders and the Chief of Ohio EPA's Division of Environmental Response and Revitalization acknowledges, in writing, the termination of these Orders. If Ohio EPA does not agree that all obligations have been performed, then Ohio EPA will notify Respondent of the specific obligations that have not been performed in a timely manner of Respondent's submission, in which case Respondent shall have an opportunity to address any such deficiencies and seek termination as described above.

The certification shall contain the following attestation: "I certify that the information contained in or accompanying this certification is true, accurate and complete."

This certification shall be submitted by Respondent to Ohio EPA and shall be signed by a responsible official of Respondent. For purposes of these Orders, a responsible official is a [e.g., corporate officer] who is in charge of a principal business function of 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 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
Central District Office
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: DERR Hazardous Waste Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Division of Environmental Response and Revitalization
P.O. Box 1049
Columbus, Ohio 43216-1049

For deliveries to the building:

Manager, Hazardous Waste Compliance Assurance Section
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Environmental Response and Revitalization
50 West Town Street, Suite 700
Columbus, Ohio 43215

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 at 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 closure or corrective action. Ohio EPA and Respondent each reserve all 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, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in these Orders, Respondent consents to the issuance of these Orders and agrees to comply with these Orders. Except for the right 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

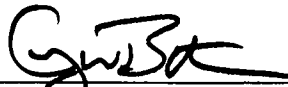
The effective date of these Orders is the date these Orders are entered into the Ohio EPA Director's journal.

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:

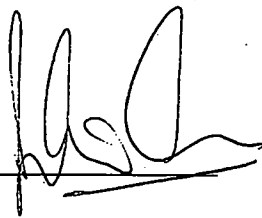
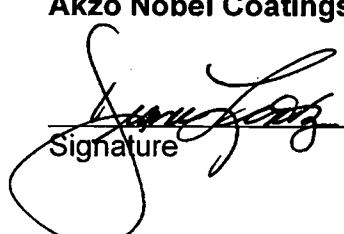
Ohio Environmental Protection Agency



Craig W. Butler
Director

IT IS SO AGREED:

Akzo Nobel Coatings, Inc.



Signature

Date 10-6-16

DIANE LENTZ J.C. CASS
Printed or Typed Name

VP / CONTROLLER VP GLOBAL ACCTS.
Title