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By: John L. ... Date: 4-2-10

OHIO E.P.A.

APR -2 2010

ENTERED DIRECTOR'S JOURNAL

**BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY**

In the Matter of:

**Hartzell Fan, Inc.
910 S. Downing St.
Piqua, OH 45356**

**Director's Final
Findings and Orders**

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 Hartzell Fan, Inc. (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code (ORC) §§ 3734.02(G), 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 used in ORC Chapter 3734. and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of Ohio EPA has determined the following findings:

1. Pursuant to ORC § 3734.02(G) and rule 3745-50-31 of the Ohio Administrative Code (OAC), the Director, by order, may exempt any person

generating, storing, treating, or disposing of hazardous waste in such quantities or under such circumstances that, in the determination of the Director, it is unlikely that the public health or safety or the environment will be adversely affected thereby, from any requirement to obtain a permit or comply with the other requirements of ORC Chapter 3734. Any such exemption shall be consistent with and equivalent to rules promulgated under the Resource Conservation and Recovery Act of 1976, 90 Stat. 2806, 42 U.S.C. § 6921 et seq., as amended.

2. Respondent is the owner and operator of an industrial air moving equipment manufacturing facility located at 910 South Downing Street, Piqua, Ohio (Facility). Painting operations are conducted at the Facility as part of the manufacturing processes. Respondent has two paint booths in which it applies primer and a top coat.
3. Respondent is a large quantity generator and generates hazardous wastes, including ignitable hazardous wastes (D001, F003, and F005) related to the painting operations conducted at the Facility. The ignitable hazardous wastes are accumulated in 55-gallon storage drums, which are stored in a less than ninety-day hazardous waste storage area located in a storage shed near the Facility's property line along South Downing Street. Respondent typically generates three to five drums of hazardous waste per month.
4. OAC rule 3745-66-76 requires that containers holding ignitable or reactive hazardous waste shall be located at least fifteen meters (i.e., fifty feet) from a facility's property line.
5. Respondent accumulates ignitable hazardous wastes in a less than ninety-day hazardous waste accumulation area in a storage shed located less than fifty feet from the Facility's property line. The storage shed, which is situated against a chain-link fence that forms the Facility's property line along South Downing Street, is of cinder block construction with a metal roof and contains three storage bays each separated by cinder block walls. The less than ninety-day hazardous waste accumulation area is located in the southern storage bay. The storage bay used for hazardous waste storage, which is clearly marked with hazardous waste storage area designation signs, has the capacity to store eight drums and contains secondary containment skids and trays. The storage shed is located approximately twenty feet from the Facility's property line. The closest adjacent property in the vicinity of the storage shed is utilized by Dyna-Vac Plastics Inc., a plastic molding company that employs a staff of approximately five to nine, and is located across South Downing Street from the Facility.

6. On November 2, 2009, Respondent requested an exemption from the requirement of OAC rule 3745-66-76 to locate containers holding ignitable and reactive wastes at least fifty feet from the Facility's property line. The request included information justifying the request and documentation that accumulation of ignitable and reactive hazardous wastes less than fifty feet from the property boundary is unlikely to adversely affect public health or safety or the environment. Respondent supplemented the November 2, 2009 request with an August 4, 2009 letter from the Piqua Fire Department in which the Captain of the Piqua Fire Department stated, as per their inspection, that the storage area appears to comply with the rules set forth in the Ohio Fire Code and that the Fire Department does not have an issue with the location of the building.
7. Pursuant to ORC § 3734.02(G) and OAC rule 3745-50-31, the Director has determined that Respondent's accumulation of ignitable hazardous wastes less than fifty feet from the property line is unlikely to adversely affect public health or safety or the environment.

V. ORDERS

1. Respondent is hereby exempted from the requirement to store ignitable wastes at least fifty feet from the Facility property line, as required by OAC rule 3745-66-76 as long as the ignitable wastes are managed in the less than ninety-day hazardous waste accumulation area referenced in Finding No. 5 of these Orders and in accordance with all other applicable hazardous waste laws.
2. The Director may revoke the exemption granted in Order No. 1 of these Orders for any reason, including but not limited to, a determination that Respondent's activities at the Facility adversely affect public health or safety or the environment and/or the activities are not being conducted in accordance with these Orders.
3. The exemption from the State of Ohio's hazardous waste requirements provided by these Orders shall terminate when either one of the following events occurs:
 - a. Respondent ceases to accumulate ignitable hazardous wastes at the Facility; or
 - b. The Director revokes the exemption granted to the Respondent under these Orders.

4. The issuance of these Orders by the Director does not release the Respondent of any liability it may have incurred for any violations which may have occurred at the Facility prior to the effective date of these Orders. The issuance of these Orders does not release the Respondent from any obligation it has to comply with the State of Ohio's environmental laws, except as otherwise specifically provided herein.
5. These Orders do not exempt the Respondent from any other local, state, or federal laws or regulations which are otherwise applicable.

VI. 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.

VII. 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.

VIII. RESERVATION OF RIGHTS

Ohio EPA and Respondent reserve all rights, privileges, and causes of action, except as specifically waived in Section IX of these Orders.

IX. WAIVER

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 Ohio Environmental Review Appeals Commission, or any court, Respondent retains the right to intervene and participate in such appeal. In such event, Respondent shall continue to comply with these Orders notwithstanding such appeal and intervention unless these Orders are stayed, vacated, or modified.

X. EFFECTIVE DATE

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

XI. 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 2, 2010

Date

IT IS SO AGREED:

Hartzell Fan, Inc.



Signature

3/5/10

Date

GEORGE D. ATKINSON

Printed or Typed Name

President

Title