



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



STATE OF CONNECTICUT

VS.

M. J. METALS, INC.

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ORDER NO. 8076C

ORDER

A. The Commissioner of Environmental Protection ("Commissioner") finds the following:

- 1. M. J. Metals, Inc. ("Respondent") is a corporation which leases property and operates a scrap metal business located on Alabama Street and Connecticut Street more fully described as Lots 6, 11, 12, 13, Block 951, Map 66 ("site"), New Haven, Connecticut.
2. The Environmental Protection Agency ("EPA") has designated the city of New Haven as nonattainment with respect to the National Ambient Air Quality Standards ("NAAQS") for particulate matter with a nominal diameter of ten microns or less ("PM10").
3. The Commissioner, in accordance with the Clean Air Act Amendments of 1990, is developing a plan which reduces emissions of particulate matter to bring the city of New Haven into attainment with the NAAQS for PM10.
4. At the site, Respondent has caused or permitted materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne and has caused or permitted the discharge of visible emissions beyond the lot line of the site.
5. The Commissioner has determined that Respondent must reduce fugitive emissions at the facility to bring the nonattainment area into attainment with the NAAQS for PM10.
6. By virtue of the above, Respondent has violated Sections 22a-174-18(b)(1) and 22a-174-18(b)(3) of the Regulations of Connecticut State Agencies ("Regulations").

B. Pursuant to Sections 22a-6, 22a-171, 22a-174, 22a-177 and 22a-178 of the Connecticut General Statutes and Section 22a-174-18 of the Regulations, the Commissioner orders Respondent as follows:

1. On or before one (1) month after the issuance of this Order, Respondent shall submit for the Commissioner's review and written approval a comprehensive and thorough written plan which identifies the remedial actions which Respondent will take to prevent particulate matter from being airborne and to ensure no fugitive discharges of visible emissions beyond site's legal property boundaries will occur. The remedial action in such plan shall designate all land within the site as vehicle travel, parking or fenced vegetated areas. Such plan shall include requirements for:
 - a. properly grading and paving all areas that will be open to vehicle travel and parking;
 - b. fencing in with permanent barriers, such as guard rails, all areas that will not be open to vehicle travel and parking;
 - c. planting all areas included within such permanent barriers with vegetation suitable to the soil and climate;
 - d. constructing wind barriers of no greater than 50% porosity to surround all piles of stored raw and or product materials up to the pile height and length; and
 - e. installing and operating a wet suppression system for all piles of stored raw and or product materials.

The plan shall include an implementation and maintenance schedule for all remedial actions proposed by the Respondent and in this Order and shall evaluate any other alternative specified by the Commissioner. The plan also shall include a schedule for applying for and obtaining all written approvals from the Commissioner required for such remedial actions. The schedule shall provide for completion of all remedial actions no later than three (3) months after the approval of the plan by the Commissioner.

2. Respondent shall perform the approved plan in accordance with the approved schedule. Within fifteen days after completing all such actions, the Respondent shall certify to the Commissioner in writing that the actions have been completed as approved.

3. On or before two (2) months after the date of issuance of this Order, Respondent shall submit for the Commissioner's review and written approval a scope of study for testing to quantify surface dirt loading and silt content at the site and outside the legal property boundaries of the site to verify attainment with the NAAQS for PM10 ("scope of study"). The scope of study shall include but need not be limited to, the testing of surface dirt loading and silt content and subsequent laboratory analysis. Such scope of study shall include the following:
 - a. a detailed plan describing procedures for sampling and laboratory analysis of surface materials in accordance with the United States Environmental Protection Agency document, Control of Open Fugitive Dust Sources Appendix D & E, September 1988 (EPA-450/3-88-008);
 - b. the locations where Respondent will conduct sampling of surface dirt loading and silt content;
 - c. a detailed plot plan of the sites, including the location of legal property boundaries; and
 - d. a detailed schedule to perform the testing.
4. Respondent shall perform the approved testing program in accordance with the approved scope of study. Such testing shall commence no later than three (3) months after the Commissioner's approval of the scope of study. Respondent shall schedule such testing so as to allow representatives of the Department to be present during such testing, notify the Department no later than fifteen (15) days prior to such testing and shall allow such representatives to conduct procedural and operational audits. Within one (1) month after completing the testing, Respondent shall submit to the Commissioner for his review and written approval, a report of the results of such testing and all documentation necessary to verify said results.
5. If the approved remedial actions do not result in the prevention and abatement of air pollution and/or attainment of the PM10 standard to the satisfaction of the Commissioner, additional remedial actions and measures for testing and reporting on the effectiveness of those actions shall be performed in accordance with a supplemental plan and schedule approved in writing by the Commissioner. Unless otherwise specified in writing by the Commissioner, the supplemental plan and schedule shall be submitted for the Commissioner's review and written approval on or before thirty (30) days after notice from the Commissioner that they are required.

6. Progress reports. On or by the tenth day of March, June, September and December following issuance of this Order, and continuing until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner Respondent shall submit progress reports describing the actions which the Respondent has taken to date to comply to date with this order.
7. Full compliance. Respondent shall not be considered in full compliance with this order until all actions required by this order have been completed as approved and to the satisfaction of the Commissioner and all pollution emanating from Respondent's property and its sources has been abated to the satisfaction of the Commissioner.
8. Approvals. Respondent shall use best efforts to submit to the Commissioner all documents required by this order in a complete and approvable form. If the Commissioner notifies the Respondent that any document or other action is deficient, and does not approve it with conditions or modifications, it is deemed disapproved, and Respondent shall correct the deficiencies and resubmit it within the time specified by the Commissioner or, if no time is specified by the Commissioner, within thirty days of the Commissioner's notice of deficiencies. In approving any document or other action under this order, the Commissioner may approve the document or other action as submitted or performed or with such conditions or modifications as the Commissioner deems necessary to carry out the purposes of this order. Nothing in this paragraph shall excuse noncompliance or delay.
9. Definitions. As used in this order, "Commissioner" means the Commissioner of the Department of Environmental Protection or an agent of the Commissioner.
10. Dates. The date of submission to the Commissioner of any document required by this order shall be the date such document is received by the Commissioner. The date of any notice by the Commissioner under this order, including but not limited to notice of approval or disapproval of any document or other action, shall be the date such notice is personally delivered or the date three days after it is mailed by the Commissioner, whichever is earlier. Except as otherwise specified in this order, the word "day" as used in this order means calendar day. Any document or action which is required by this order to be submitted or performed by a date which falls on a Saturday, Sunday or legal holiday shall be submitted or performed on or before the following day which is not a Saturday, Sunday or legal holiday.

11. Notification of noncompliance. In the event that Respondent becomes aware that it did not or may not comply, or did not or may not comply on time, with any requirement of this order or of any document required hereunder, Respondent shall immediately notify the Commissioner and shall take all reasonable steps to ensure that any noncompliance or delay is avoided or, if unavoidable, is minimized to the greatest extent possible. In so notifying the Commissioner, Respondent shall state in writing the reasons for the noncompliance or delay and propose, for the review and written approval of the Commissioner, dates by which compliance will be achieved, and Respondent shall comply with any dates which may be approved in writing by the Commissioner. Notification by Respondent shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay unless specifically so stated by the Commissioner in writing.
12. Certification of documents. Any document, including but not limited to any notice, which is required to be submitted to the Commissioner under this order shall be signed by a responsible corporate officer of Respondent or a duly authorized representative of such officer, as those terms are defined in section 22a-430-3(b)(2) of the Regulations of Connecticut State Agencies, and by the individual or individuals responsible for actually preparing such document, each of whom shall certify in writing as follows:

"I have personally examined and am familiar with the information submitted in this document and all attachments and certify that based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief, and I understand that any false statement made in this document or its attachments may be punishable as a criminal offense."
13. Noncompliance. Failure to comply with this order may subject Respondent to an injunction and penalties under Chapters 439 and 446c of the Connecticut General Statutes.
14. False statements. Any false statement in any information submitted pursuant to this order may be punishable as a criminal offense under Section 22a-175 of the Connecticut General Statutes or, in accordance with Section 22a-6, under Section 53a-157 of the Connecticut General Statutes.

15. Notice of transfer; liability of Respondent and others. Until Respondent have fully complied with this order, Respondent shall notify the Commissioner in writing no later than fifteen days after transferring all or any portion of the operations, sites or business, which are the subject of this order, or obtaining a new mailing or location address. Respondent's obligations under this order shall not be affected by the passage of title to any property to any other person or municipality. Any future owner of the sites may be subject to the issuance of an order from the Commissioner.
16. Commissioner's powers. Nothing in this order shall affect the Commissioner's authority to institute any proceeding to prevent or abate violations of law, prevent or abate pollution, recover costs and natural resource damages, and to impose penalties for violations of law, including but not limited to violations of any permit issued by the Commissioner. If at any time the Commissioner determines that the actions taken by Respondent pursuant to this order have not fully characterized the extent and degree of pollution or have not successfully abated or prevented pollution, the Commissioner may institute any proceeding to require Respondent to undertake further investigation or further action to prevent or abate pollution.
17. Respondent's obligations under law. Nothing in this order shall relieve Respondent of other obligations under applicable federal, state and local law.
18. No assurance by Commissioner. No provision of this order and no action or inaction by the Commissioner shall be construed to constitute an assurance by the Commissioner that the actions taken by Respondent pursuant to this order will result in compliance or prevent or abate pollution.
19. Notice to Commissioner of changes. Within fifteen days of the date Respondent becomes aware of a change in any information submitted to the Commissioner under this order, or that any such information was inaccurate or misleading or that any relevant information was omitted, Respondent shall submit the correct or omitted information to the Commissioner.
20. Submission of documents. Any document required to be submitted to the Commissioner under this order shall, unless otherwise specified in writing by the Commissioner, be directed to:

Elizabeth I. Hotaling
Department of Environmental Protection
Air Management Bureau, State Office Building, Room 136
165 Capitol Avenue
Hartford, Connecticut 06106

Issued as an order of the Commissioner of Environmental
Protection on June 18, 1993.


Timothy B.E. Keeney
Commissioner

TK/CDN

M. J. METALS, INC.
LAND RECORDS

MAILED CERTIFIED MAIL,
RETURN RECEIPT REQUESTED

Certified Document No.