

OHIO E.P.A.

APR 28 2005

ENTERED DIRECTOR'S JOURNAL

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Flowform, L.L.C.
1630 Coining Dr.
Toledo, Ohio 43612

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Director's Findings
and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

JURISDICTION

These Director's Findings and Orders ("Orders") are issued to Flowform, L.L.C. ("Respondent") pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("O.R.C.") § 3745.01 and 3751.09.

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 the Respondent 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 O.R.C. Chapter 3751 and the rules promulgated thereunder.

Michael A. Shapiro

4/28/05

IV. FINDINGS

The Director of Ohio EPA has determined the following findings:

1. Respondent operates a cold forge for the manufacture of automotive components at its facility in Toledo, Ohio.
2. Pursuant to Ohio Administrative Code ("OAC") rules 3745-100-06 and 3745-100-07, the owner or operator of a facility that is classified within a covered Standard Industrial Classification ("SIC") code, has 10 or more full-time employees, and manufactures, processes, and/or otherwise uses a toxic chemical listed in OAC rule 3745-100-10 in excess of the applicable threshold, must file a TRI report with the Ohio EPA and U.S. EPA on or before July 1 of the following year.
3. Respondent's facility is classified within a covered Standard Industrial Classification code, specifically SIC 3462, iron and steel forgings.
4. Respondent reported employment of 73 employees in 2001, 75 employees in 2002, and 85 employees in 2003 at the Toledo facility.
5. Zinc compounds, U.S.EPA Chemical Category N982, is a listed toxic chemical category in OAC rule 3745-100-10.
6. Respondent reported processing 34,772 pounds of zinc compounds in calendar year 2001, 41,966 pounds of zinc compounds in calendar year 2002, and 37,294 pounds of zinc compounds in 2003.
7. On November 23, 2004, Ohio EPA inspected the Respondent's facility and reviewed TRI record keeping and reporting requirements.
8. Information provided by Respondent at the inspection and by way of December 14, 2004 correspondence, demonstrated that the facility had violated the toxic chemical reporting requirements contained in OAC rule 3745-100-07 and O.R.C. § 3751.07.

9. Respondent failed to submit TRI reports for calendar years 2001, 2002 and 2003 to Ohio EPA on or before July 1, 2002, July 1, 2003 and July 1, 2004, respectively, in violation of OAC rule 3745-100-07 and O.R.C. § 3751.07. Respondent also failed to pay the filing fees as required by OAC rule 3745-100-12, in violation of that rule and O.R.C § 3751.07. (Respondent submitted delinquent reports, dated December 21,2004, and appropriate fees. These were received December 30, 2004.)
10. Respondent failed to submit TRI reports for calendar years 2001, 2002 and 2003 to U.S. EPA on or before July 1, 2002, July 1, 2003, and July 1, 2004, respectively.
11. The Director has given consideration to, and based his determination on, evidence relating to the technical feasibility and economic reasonableness of complying with the following Orders and their relation to benefits to the people of the State to be derived from such compliance.

V. ORDERS

The Director hereby issues the following Orders:

1. Within fourteen (14) days after the effective date of these Orders, Respondent shall pay the amount of three thousand eight hundred thirty-two dollars (\$3,832) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to O.R.C. § 3751.10. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" and submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying the Respondent.

A copy of the check shall be sent to James A. Orlemann, Assistant Chief, SIP Development and Enforcement, or his successor, at the following address:

Division of Air Pollution Control
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, Ohio 43216-1049

VI. TERMINATION

Respondent's obligations under these Orders shall terminate upon Ohio EPA's receipt of the total payment required by Section V of these Orders.

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 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

Copies of all documents required to be submitted by Respondent pursuant to these Orders shall be provided and addressed to:

Ohio Environmental Protection Agency
Lazarus Government Center
Division of Air Pollution Control
122 South Front Street, P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: James A. Orlemann

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

XI. RESERVATION OF RIGHTS

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. 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



Joseph P. Koncelik
Director

4/26/05

Date

IT IS SO AGREED:

Flowform, L.L.C.



Signature

4/21/05

Date

P.T. Mitchell

Printed or Typed Name

Printed or Typed Name

Director of Operations

Title

Title