OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Spectrum Metal Finishing, Inc.
535 Bev Road
Youngstown, Ohio 44512

Respondent

Director's Final Findings and Orders

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: _____ Date: 11-19-08

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Spectrum Metal Finishing, 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

All of the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Nothing in the findings shall be considered to be an admission by Respondent of any matter of law or fact. The Director of Ohio EPA has determined the following findings:

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).

2. Respondent operates as an architectural metal finisher and is located at 535 Bev Road, Youngstown, Mahoning County, Ohio (Facility). Respondent notified Ohio EPA of its hazardous waste activities and was issued generator identification number OHD004229506.

3. 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. Respondent is a large quantity generator of hazardous waste. The hazardous waste generated by Respondent at the Facility includes wastewater treatment filter cake (F019), spent solvent and paint-related waste (D001, D035, F003, F005), and burn oven ash (D006, D007).

4. On June 9, 2005, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:

   a. Failed to determine whether wastes generated at the Facility were hazardous waste, in violation of OAC rule 3745-52-11;

   b. Failed to obtain a signed copy of hazardous waste manifests from the receiving facility for each off-site shipment of hazardous waste, in violation of OAC rule 3745-52-42(A);

   c. Failed to develop and implement a hazardous waste management training program for employees at the Facility that handle and/or manage hazardous waste, in violation of OAC rule 3745-65-16(A) through (D);

   d. Failed to develop and maintain a hazardous waste contingency plan at the Facility, in violation of OAC rule 3745-65-52;

   e. Failed to maintain and operate the Facility in a manner which minimizes the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to the air, soil, or surface water, in

violation of OAC rule 3745-65-31;

f. Failed to mark storage containers holding hazardous waste with the accumulation start date, and failed to label a storage container holding hazardous waste with the words, "Hazardous Waste," in violation of OAC rule 3745-52-34(A)(2) and (3);

g. Failed to label satellite accumulation containers holding hazardous waste with the words, "Hazardous Waste," or with other words that identified the contents of the containers, in violation of OAC rule 3745-52-34(C)(1)(b);

h. Failed to keep a container holding hazardous waste closed when not adding or removing hazardous waste, in violation of OAC rule 3745-66-73;

i. Failed to complete land disposal restriction notification forms for off-site shipments of hazardous waste, in violation of OAC rule 3745-270-07; and

j. Failed to manage universal waste spent lamps in accordance with the universal waste requirements, in violation of OAC rules 3745-273-13 through 3745-273-15.

5. By letter dated June 23, 2005, Ohio EPA notified Respondent of the violations referenced in Finding Nos. 4.a. through 4.j. of these Orders. Also in the June 23, 2005 letter, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Finding Nos. 4.b., 4.f., and 4.g. of these Orders.

6. In correspondence dated July 28, 2005, Respondent provided responses to Ohio EPA's June 23, 2005 letter.

7. By letter dated August 17, 2005, Ohio EPA notified Respondent that, based upon the information contained in Respondent's July 28, 2005 correspondence, Respondent had abated the violations referenced in Finding Nos. 4.e., 4.h., and 4.j. of these Orders.

8. By letter dated January 13, 2006, and by telephone call placed on December 20, 2005, to Respondent, Ohio EPA requested responses to the violations referenced in Finding Nos. 4.a., 4.c., 4.d., and 4.i. of these Orders.

9. In correspondence dated January 30, 2006, Respondent provided responses to Ohio EPA's January 13, 2006 letter and December 20, 2005 telephone call.

10. By letter dated February 6, 2006, Ohio EPA notified Respondent that, based upon the information contained in Respondent's January 30, 2006 correspondence,

Respondent had abated the violations referenced in Finding No. 4.a. and 4.c. of these Orders.

11. In electronic correspondence dated February 7, 2006, Ohio EPA notified Respondent that the OAC rule 3745-65-16(A) through (D) violation, referenced in Finding No. 4.c. of these Orders, was erroneously abated in Ohio EPA's February 6, 2006 letter, referenced in Finding No. 10 of these Orders, and remained outstanding.

12. By telephone call placed on February 8, 2006, to Respondent, Ohio EPA requested responses to the violations referenced in Finding Nos. 4.c., 4.d., and 4.i. of these Orders.

13. By letter dated July 30, 2007, Ohio EPA notified Respondent of the outstanding violations referenced in Finding Nos. 4.d. and 4.i. of these Orders, and requested a response.

14. By submittals dated August 3, August 6, and August 8, 2007, Respondent addressed the violations referenced in Finding Nos. 4.d. and 4.i. of these Orders.

15. By letter dated August 8, 2007, Ohio EPA notified Respondent that all violations discovered during the June 9, 2005 inspection had been abated.

16. By electronic correspondence dated January 2, 2008, Ohio EPA notified Respondent that the violation referenced in Finding No. 4.c. of these Orders had inadvertently not been included in the July 30, 2007 letter, and that it remains outstanding.

17. Ohio EPA received documentation from Respondent on February 27, March 4, and April 15, 2008. Based upon a review of these documents, Ohio EPA determined that Respondent abated the violation referenced in Finding No. 4.c. of these Orders.

V. ORDERS

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 Ohio EPA the amount of $20,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. $16,000.00 of this amount will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28 pursuant to the following schedule:

a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,000.00;

b. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,000.00;

c. Within 395 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $4,000.00; and

d. Within 575 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $4,000.00.

Respondent shall make each payment by tendering an official check made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent and the Facility. A copy of each check shall be submitted in accordance with Section X. of these Orders.

2. In lieu of paying the remaining $4,000.00 of the civil penalty to Ohio EPA, Respondent shall fund a supplemental environmental project (SEP) by making a contribution in the amount of $4,000.00 to the Ohio EPA Clean Diesel School Bus Program (Fund 5CD) pursuant to the following schedule:

a. Within 30 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,000.00;

b. Within 210 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,000.00;

c. Within 395 days after the effective date of these Orders, Respondent shall pay to Ohio EPA the amount of $1,000.00; and

d. Within 575 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of $1,000.00.

Payments shall be made by official checks made payable to "Treasurer, State of Ohio." The official checks shall be submitted to Brenda Case, or her successor, Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying Respondent. A copy of these checks shall be submitted in accordance with Section X. of these Orders, and an additional copy of this check shall be sent to James A. Orlemann, Assistant Chief, SIP

Development and Enforcement, or his successor, Ohio EPA, Division of Air Pollution Control, P.O. Box 1049, Columbus, Ohio 43216-1049.

3. Should Respondent fail to fund the SEP within the required time frames established in Order Nos. 2.a. through 2.d., Respondent shall pay to Ohio EPA the missed payment amount no later than 7 days after the missed payment due date. Payment shall be made in accordance with the procedures established in Order No. 1.

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 Ohio EPA's Division of Hazardous Waste Management 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 obligations that have not been performed, 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 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
Northeast District Office
Division of Hazardous Waste Management
2110 E. Aurora Road
Twinsburg, Ohio 44087
Attn: DHWM Manager

and Ohio EPA Central Office at the following address:

For mailings, use the post office box number:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Chris Korleski, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Hazardous Waste Management
50 West Town Street, Suite 700
Columbus, Ohio 43215
Attn: Manager, Compliance Assurance Section

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, 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

Chris Korleski
Director

November 19, 2008
Date

IT IS SO AGREED:

Spectrum Metal Finishing, Inc.

Signature

October 24, 2008
Date

Neil Chrisman III
Printed or Typed Name

President
Title

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