

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

OHIO E.P.A.
JUN 11 2002
ENTERED DIRECTOR'S JOURNAL

In the Matter of:

Spectrum Metal Finishing, Inc. 535 Bev Road Youngstown, Ohio 44512)))	<u>Director's Final Findings</u> <u>and Orders</u>
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PREAMBLE

It is hereby agreed that:

I. JURISDICTION

These Director's Final Findings and Orders ("Orders") are issued to Spectrum Metal Finishing Inc., pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency ("Ohio EPA") under Ohio Revised Code ("ORC") sections 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 relating to 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 used in ORC Chapter 3751 and the regulations promulgated thereunder.

IV. FINDINGS OF FACT

The Director of the Ohio EPA has determined the following findings of fact:

1. Spectrum Metal Finishing Inc. owns and operates equipment used for the manufacturing of finished architectural metals at its facility in Youngstown, 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 fulltime employees, and uses a toxic chemical listed in OAC rule 3745-100-10 in excess of 10,000 pounds in a

calendar year beginning in 1988, or manufactures or processes a toxic chemical in excess of 50,000 pounds in 1988 and 25,000 in any year thereafter, must file a TRI report with the Ohio EPA and U.S. EPA on or before July 1 of the following year.

3. Spectrum Metal Finishing Inc.'s facility is classified within a covered Standard Industrial Classification ("SIC") code, specifically SIC code number 3479.
4. Spectrum Metal Finishing Inc. employed approximately 75 employees in 1998, 80 employees in 1999, and 80 employees in 2000 at the Youngstown facility.
5. Ethylbenzene (CAS 100-41-4), glycol ethers (CAS N-230), toluene (CAS 108-88-3), and xylene (CAS 1330-20-7) are listed chemicals in OAC rule 3745-100-10.
6. Spectrum Metal Finishing Inc. used/processed approximately 100,971 pounds of xylene, 16,479 pounds of ethylbenzene, 15,213 pounds of glycol ethers, and 12,405 pounds of toluene in 1998, 95,223 pounds of xylene, 15,698 pounds of ethylbenzene, 16,844 pounds of glycol ethers, and 14,088 pounds of toluene in 1999, and 135,308 pounds of xylene, 22,169 pounds of ethylbenzene, 20,804 pounds of glycol ethers, and 16,646 pounds of toluene in 2000.
7. On November 7, 2002, Ohio EPA inspected Spectrum Metal Finishing Inc.'s facility and found that Spectrum Metal Finishing Inc. had violated the reporting requirements contained in OAC rule 3745-100-07 and ORC Section 3751.07.
8. Spectrum Metal Finishing Inc. failed to submit TRI reports for calendar years 1998, 1999, and 2000 to Ohio EPA on or before July 1, 1999, July 1, 2000, and July 1, 2001, respectively. Spectrum Metal Finishing Inc. also failed to pay the filing fee as required by OAC rule 3745-100-12, in violation of that rule and ORC Section 3751.07. Ohio EPA eventually received the TRI reports for calendar years 1998, 1999 and 2000, as well as the associated filing fees, on February 19, 2002.
9. Spectrum Metal Finishing Inc. failed to submit TRI reports for calendar years 1998, 1999, and 2000 to U.S. EPA on or before July 1, 1999, July 1, 2000, and July 1, 2001, respectively, in violation of OAC rule 3745-100-07 and ORC Section 3751.07.
10. 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 Order:

Pursuant to R.C. 3704.06, Spectrum Metal Finishing Inc. is assessed a civil penalty of eight thousand six hundred dollars (\$8,600) in settlement of Ohio EPA's claim for civil penalties. Within thirty (30) days from the effective date of these Orders, Spectrum Metal Finishing Inc. shall pay to Ohio EPA the amount of six thousand eight hundred and eighty dollars (\$6,880) in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3751. Payment shall be made by certified check made payable to "Treasurer, State of Ohio" and sent to the following address:

Vicki Galilei
Office of Fiscal Administration
Ohio Environmental Protection Agency
P.O. Box 1049
Columbus, OH 43216-1049

The remaining one thousand seven hundred and twenty dollars (\$1,720) shall be paid to fund a supplemental environmentally beneficial project. Specifically, within thirty (30) days after the effective date of these Orders, Spectrum Metal Finishing Inc. shall deliver a certified check in this amount and made payable to the Ohio Department of Natural Resources, Division of Forestry, State Forest Fund for the purpose of funding urban tree-planting projects in Ohio. This check shall specify that such monies are to be deposited into Fund No. 509. The check shall be sent to John Dorka, Deputy Chief, or his successor, at the following address:

Division of Forestry
Ohio Department of Natural Resources
1855 Fountain Square Court, H-1
Columbus, Ohio 43224-1327

A copy of both checks shall be sent to James A. Orlemann, Manager, Engineering Section, 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. 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 the Spectrum Metal Finishing Inc.'s facility.

VII. RESERVATION OF RIGHTS

Nothing contained herein prevents the Ohio EPA from seeking legal or equitable relief to enforce the terms of these Orders or from taking other administrative, legal, or equitable action as deemed appropriate and necessary, including seeking penalties against Spectrum Metal Finishing Inc. for noncompliance with these Orders. Nothing contained herein prevents the Ohio EPA from exercising its lawful authority to require Spectrum Metal Finishing, Inc. to perform additional activities pursuant to ORC Chapter 3751 or any other applicable law in the future. Nothing herein restricts the right of Spectrum Metal Finishing Inc. to raise any administrative, legal or equitable claim or defense with respect to such further actions which the Ohio EPA may seek to require of Spectrum Metal Finishing Inc.

VIII. MODIFICATIONS

These Orders may be modified by mutual agreement of the Parties. Modifications shall be in writing and shall be effective on the date entered in the Journal of the Director of the Ohio EPA.

IX. TERMINATION AND SATISFACTION

These Orders shall terminate when Spectrum Metal Finishing Inc. demonstrates in writing and certifies to the satisfaction of the Ohio EPA that all obligations under these Orders have been performed and the Ohio EPA, DAPC, accepts this certification in writing.

X. SIGNATORIES

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 this document.

XI. WAIVER

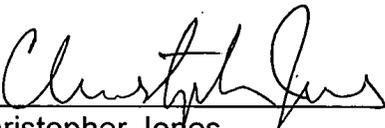
In order to resolve disputed claims, without admission of fact, violation or liability, Spectrum Metal Finishing Inc. agrees to comply with these Orders. Compliance with these Orders shall be a full accord and satisfaction for Spectrum Metal Finishing Inc.'s civil

liability for the specific violations cited herein. Spectrum Metal Finishing Inc. hereby waives the right to appeal the issuance, terms and service of these Orders and it hereby waives any and all rights it may have to seek administrative or judicial review of these Orders either in law or equity.

Notwithstanding the preceding, the Ohio EPA and Spectrum Metal Finishing Inc. agree that if these Orders are appealed by any other party to the Environmental Review Appeals Commission, or any court, Spectrum Metal Finishing Inc. retains the right to intervene and participate in such an appeal. In such event, Spectrum Metal Finishing Inc. shall continue to comply with these Orders unless said Orders are stayed, vacated, or modified.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency



Christopher Jones
Director

5-31-02
Date

IT IS AGREED

Spectrum Metal Finishing Inc.



By

5-20-02
Date



Title