

OHIO E.P.A.

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ENTERED DIRECTOR'S JOURNAL

BEFORE THE
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the Matter of:

Superior Forge & Steel Corporation
1820 McClain Road
Lima, Ohio 45804

Respondent

Director's Final
Findings and Orders

PREAMBLE

It is agreed by the parties hereto as follows:

I. JURISDICTION

These Director's Final Findings and Orders (Orders) are issued to Superior Forge & Steel Corporation (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 the findings necessary for the issuance of these Orders pursuant to ORC §§ 3734.13 and 3745.01 have been made and are outlined below. Respondent disputes and disagrees with the findings and 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 OAC rule 3745-50-10(A).
2. Respondent is the owner and operator of a steel roller manufacturing facility at 1820 McClain Road, Lima, Allen County, Ohio (Facility). The rollers are made from scrap steel and are high in chromium and carbon.
3. Respondent notified Ohio EPA its hazardous waste activities at the Facility on April 27, 1991, and has been assigned generator identification number OHD987033131.
4. 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 and generates hazardous waste baghouse dust, which exhibits the characteristic of toxicity for chromium (D007). Respondent is also a small quantity handler of universal waste lamps.
5. On August 22, 2007, Ohio EPA performed a compliance evaluation inspection at the Facility. As a result of the inspection, Ohio EPA determined that Respondent had, *inter alia*:
 - a. Failed to evaluate waste baghouse dust stored in four (4) five cubic yard waste boxes at a previously used baghouse located near Buckeye Road (Buckeye Road baghouse), in violation of OAC rule 3745-52-11;
 - b. Failed to provide employees initial training in hazardous waste management procedures within six months after the date they are hired, in violation of OAC rule 3745-65-16(B);
 - c. Failed to provide employees annual refresher training in hazardous waste management procedures, in violation of OAC rule 3745-65-16(C);
 - d. Failed to label universal waste lamps, or containers or packages of lamps, in violation of OAC rule 3745-273-34(E);

- e. Failed to adequately demonstrate the length of time universal waste lamps were accumulated, in violation of OAC rule 3745-273-15(C);
 - f. Failed to train employees in the proper handling and emergency procedures appropriate for the Facility's universal waste lamps, in violation of OAC rule 3745-273-16; and
 - g. Failed to amend the contingency plan when there was a change in the emergency coordinator at the Facility, in violation of OAC rule 3745-65-54(D).
6. On August 24, 2007, Ohio EPA observed Respondent's representatives collect samples from the four (4) five cubic yard waste boxes and from two locations on the ground where waste appeared to have been spilled, at the Buckeye Road baghouse location at the Facility.
 7. By letter dated September 6, 2007, Ohio EPA notified Respondent of the violations referenced in Finding No. 5. of these Orders.
 8. By electronic correspondence on September 11, 2007, Respondent submitted analytical results which indicated the baghouse dust waste in three of the four waste boxes at the Buckeye Road baghouse location was characteristic hazardous waste for chromium (D007) as described in OAC rule 3745-51-24, but the samples of the baghouse waste collected from the two locations on the ground did not test characteristically hazardous.
 9. By letter dated September 21, 2007, Ohio EPA notified Respondent that based on the analytical results submitted on September 11, 2007, the violation of OAC rule 3745-52-11 set forth in Finding No. 5.a. was abated, however, because the waste determination had demonstrated that the waste was a hazardous waste, Respondent had established an unpermitted hazardous waste storage facility by storing hazardous waste baghouse dust (D007) in three of the waste boxes at Buckeye Road baghouse location for greater than 90 days, in violation of ORC § 3734.02(E) and (F).
 10. In letters dated October 4 and October 19, 2007, Respondent submitted additional information addressing the violations described in Findings Nos. 5.b. through 5.g. and Finding No. 9. of these Orders. This information included documentation that the waste and hazardous waste in the four waste boxes had been shipped offsite to an authorized hazardous waste facility, and the waste boxes had been placed in Respondent's Electric Arc furnace for destruction.
 11. On October 31, 2007, Ohio EPA conducted an inspection at the Facility. During the inspection, Ohio EPA discovered hazardous waste baghouse dust (D007)

being stored in the non-operational baghouse at the Buckeye Road location without a hazardous waste facility installation and operation permit, in violation of ORC § 3734.02(E) and (F). This baghouse had not operated for at least seventeen (17) years.

12. By letter dated November 7, 2007, Ohio EPA notified Respondent that Respondent had abated the violations referenced in Findings Nos. 5.b. through 5.g. of these Orders, but remained in violation of ORC § 3734.02(E) and (F) referenced in Finding No. 9. of these Orders. Additionally, in the November 7, 2007 letter, Ohio EPA notified Respondent of the violation of ORC § 3734.02(E) and (F) described in Finding No. 11. of these Orders.
13. By electronic correspondence dated January 10, 2008, Respondent provided documentation including hazardous waste manifests, demonstrating that the hazardous waste baghouse dust and contaminated bags had been removed from the Buckeye Road baghouse and properly disposed at an authorized hazardous waste facility.
14. On December 19, 2011, Ohio EPA and Respondent participated in a conference call to discuss a potential supplemental environmental project (SEP) which consisted of the installation and operation of a Baghouse Dust Treatment System on the functioning baghouse located in the working area of the Facility. This SEP would treat and render Respondent's baghouse dust (D007) non-hazardous at the point it is discharged from Respondent's air pollution control system. During the conference call and subsequent discussions, Respondent requested credit toward the civil penalty settlement for implementing the Baghouse Dust Treatment System SEP.
15. Since Respondent has properly disposed the hazardous waste from the four waste boxes at the Facility, removed the hazardous waste from the Buckeye Road baghouse along with addressing the visual contamination under and around the baghouse, indicated it may operate the Buckeye Road Baghouse in the future, and Respondent is an operating forge, the Director has determined that closure of the unpermitted storage units described in Findings Nos. 9. and 11. of these Orders in accordance with OAC Chapters 3745-54 and 55 is not required at this time and no further action is necessary at this time to abate the violations of ORC § 3734.02(E) and (F) described in Findings Nos. 9. and 11. of these Orders.

V. ORDERS

Respondent shall achieve compliance with Chapter 3734. of the ORC and the regulations promulgated there under according to the following compliance schedule:

1. Respondent shall pay Ohio EPA the amount of \$50,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. in accordance with the following provisions:
 - a. Within 30 days after the effective date of these Orders, Respondent shall pay Ohio EPA the amount of \$25,000.00 in settlement of Ohio EPA's claims for civil penalties, which may be assessed pursuant to ORC Chapter 3734. and which will be deposited into the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be made by an official check made payable to "Treasurer, State of Ohio" for \$25,000.00. The official check shall be submitted to Ohio EPA, Office of Fiscal Administration, Department L-2711, Columbus, Ohio 43260-2711, together with a letter identifying the Respondent and the Facility. A copy of this check shall be submitted in accordance with Section X. of these Orders.
 - b. In lieu of paying the remaining \$25,000.00 of the civil penalty settlement to Ohio EPA, Respondent shall implement the Baghouse Dust Treatment System SEP referenced in Finding No. 14. of these Orders at the currently operating baghouse at the Facility, in accordance with the schedule set forth in Order Nos. 1.b.1. through 1.b.6. of these Orders.
 1. Within 30 days after the effective date of these Orders, Respondent shall submit the results of the bench scale treatability study conducted on the hazardous waste baghouse dust (D007) samples collected at the Facility, including analytical results for chromium from before and after the hazardous waste baghouse dust (D007) is treated. All sample results and supporting documentation shall be submitted to Ohio EPA for review and approval. The sample results shall demonstrate that the baghouse dust (D007) is not a characteristic hazardous waste;
 2. Within 120 days after the effective date of these Orders, Respondent shall submit plans showing the design of the Baghouse Dust Treatment System SEP equipment that will be installed at the Facility to treat the hazardous waste baghouse dust (D007), and also include process information such as any stabilizing agents that will be used, quantities and feed rates for the stabilizing agents and a schedule for installation of the system;
 3. Within 300 days after the effective date of these Orders, Respondent shall commence operating the Baghouse Dust Treatment System;

4. Within 330 days after the effective date of these Orders, Respondent shall submit to Ohio EPA, a report providing evidence of the installation of the Baghouse Dust Treatment System SEP. The report shall include documentation of expenditures, e.g., paid invoices relating to the installation and operation of Baghouse Dust Treatment System;
 5. Within 390 days of the effective date of these Orders, Respondent shall submit to Ohio EPA the initial results of confirmation sampling which demonstrate the Baghouse Dust Treatment System SEP is adequately treating the hazardous waste baghouse dust (D007) by rendering it non-hazardous; and
 6. Within 30 days after commencing operation of the Baghouse Dust Treatment System, Respondent shall collect and analyze one sample per week for a period of sixteen (16) consecutive weeks to demonstrate the Baghouse Dust Treatment System SEP is adequately treating the hazardous waste baghouse dust (D007) by rendering it non-hazardous. All sample results and supporting documentation shall be submitted to Ohio EPA for review and approval. The sample results shall demonstrate that the baghouse dust (D007) is not a characteristic hazardous waste. These analytical results shall be submitted to Ohio EPA no later than 14 days after receipt of the results from the final sampling event.
- c. The reports and analytical results in Order 1.b. of these Orders that are required to be submitted by Respondent to Ohio EPA shall be submitted in accordance with Section X. of these Orders.
2. Should Respondent fail to implement the Baghouse Dust Treatment System SEP in accordance with the schedule in Order No. 1.b. of these Orders, or should any of the samples of the treated baghouse dust demonstrate that the baghouse dust is a characteristic hazardous waste, Respondent shall pay to the Ohio EPA the amount of \$25,000.00 in accordance with the procedures in Order No. 1.a. within 7 days after failing to comply with Order No. 1.b. of these Orders, or determining the Baghouse Dust Treatment System is failing to render the hazardous waste baghouse dust (D007) non-hazardous.

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 Materials

and 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
Northwest District Office
Division of Materials and Waste Management
347 N. Dunbridge Road
Bowling Green, Ohio 43402
Attn: DMWM Manager

and Ohio EPA Central Office at the following addresses:

For mailings, use the post office box number:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
P.O. Box 1049
Columbus, Ohio 43216-1049
Attn: Manager, Compliance Assurance Section

For deliveries to the building:

Scott J. Nally, Director
Ohio Environmental Protection Agency
Lazarus Government Center
Division of Materials and Waste Management
50 West Town Street
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 reserves its rights to exercise its lawful authority to require Respondent to perform closure of the units described in Findings Nos. 9. and 11. of these Orders and corrective action at the Facility at some time in the future, pursuant to ORC Chapter 3734. or any other applicable law. Respondent reserves its rights to raise any administrative, legal or equitable claim or defense with respect to any final action of the Director regarding such corrective action. Ohio EPA and Respondent each reserve all other 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. Except for the right to seek closure of the units described in Findings Nos. 9. and 11. of these Orders and corrective action at the Facility by Respondent, which right Ohio EPA does not waive, 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




Scott J. Nally
Director

April 10, 2012

Date

IT IS SO AGREED:

Superior Forge & Steel Corporation



Signature

3-26-12

Date

TIMOTHY BRENNAN

Printed or Typed Name

VICE PRESIDENT OF OPERATIONS

Title