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State of Ohio Environmental Protection Agency

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P.O. Box 1049
Columbus, OH 43216-1049

February 1, 2007

Re: **Toxco, Inc.**
Large Quantity Generator/TSD
OHD071654958
Fairfield County, CDO
PRTC

Mr. Ed Green
Toxco, Inc.
265 Quarry Road
Lancaster, OH 43130

Dear Mr. Green:

I received your response to my December 21, 2006 Notice of Violation (NOV) letter on December 21, 2006 and January 22, 2007. The documentation you submitted included two weeks worth of the completed environmental inspection report forms as stated in the permit application, a copy of the return copy manifest dated October 5, 2006 for the lead absolyte, one-time written notice to the director to exempt these furnaces from the BIF rules, the MSDS for Epoxi Flex, Toxco's project work order form, photos of sealed crack in Bay 52, sign in sheet for daily inspection forms training, and one week of environmental inspection report forms with updated work order dates.

My review of this documentation reveals that Toxco, Inc. has adequately demonstrated abatement of the following violations discovered during the December 7-8, 2006 inspection:

1. **Failure to operate in accordance with the hazardous waste permit application section A.5**
2. **Failure to operate in accordance with the hazardous waste permit application section C.1.a - Abated during the inspection**
3. **Failure to operate in accordance with the hazardous waste permit application section A.3.a - Abated during the inspection**
4. **Failure to operate in accordance with the hazardous waste permit application section A.3.a - Abated during the inspection**
5. **OAC Rule 3745-52-42(A)(1), Manifest Requirements**
6. **OAC Rule 3745-52-34(C)(1)(a), Satellite Accumulation Area Requirements - Abated during the inspection**

Although Toxco submitted the one-time written notice to the director to exempt these furnaces from the BIF rules, Toxco failed to include some information. This notification was reviewed by Ohio EPA's Central Office. Our Central Office has the following comments:

- Toxco should state that the one time notification is submitted pursuant to the provisions in paragraph (D)(3) of Ohio Administrative Code 3745-266-100 and not paragraph (D)(2).

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- Toxco also must state that each of the material you are burning:
- contain recoverable amounts of nickle;
- do not exhibit the toxicity characteristic of rule 3745-51-24 of the Administrative Code for an organic constituent; and
- are not a hazardous waste listed in rules 3745-51-30 to 3745-51-35 of the Administrative Code because it is listed for an organic constituent as identified in the appendix to rule 3745-51-30 of the Administrative Code; and
- Toxco must **certify** in the one-time notice that hazardous waste is burned under the provisions of paragraph (D)(3) of the rule and that sampling and analysis will be conducted or **other information will be obtained as necessary** to ensure continued compliance with these requirements.

Therefore, Toxco remains in violation of the following hazardous waste laws relating to the December 7-8, 2006 inspection and December 21, 2006 NOV:

7. OAC 3745-266-100(D)(3), Applicability - boilers and industrial furnaces

To be exempt from rules 3745-266-102 to 3745-266-11 of the Adminstrative Code, an owner or operator of a lead or nickel-chromium or mercury recovery furnace or a metal recovery furnace that burns baghouse dusts used to capture metallic dusts emitted by steel manufacturing, must provide a one-time written notice to the director identifying each hazardous waste burned and specifying whether the owner or operator claims an exemption for each waste under this paragraph or paragraph (D)(1) of this rule.

Toxco has six retort furnaces to process NiCd batteries to recover nickel and cadmium. These furnaces have been operating since August or September 2005. To date, Toxco has failed to submit the one-time written notice to the director to exempt these furnaces from the BIF rules. Toxco must submit this letter to the director and copy me on the letter in order to abate this violation.

If you should have any questions, please feel free to contact me at (614) 728-3882.

Sincerely,



Elizabeth D. Lamerson
Environmental Specialist
Division of Hazardous Waste Management
Ohio EPA, Central District Office
Enclosure

c: Pam McCoy, DHWM, CO
Brad Murphy, DHWM, CO
Todd Anderson, Legal
Tammy McConnell, DHWM, CO
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