OhioEPA

State of Ohio Environmental Protection Agency

Southwest District Office

401 E. Fifth St.
Dayton, Ohio 45402

TELE: (937) 285-6357 FAX: (937) 285-6249
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

Certified Mail

April 23, 2009

Re: SENCO Products, Inc.
Non-Generator
OHD 004 251 070 (Plant #1)
Small Quantity Generator
OHT 400 012 050 (Plant #2)
Hamilton County
PRTC/NOV

Mr. Robert J. Schmidt
Manager of Environmental Affairs & Insurance
SENCO Products, Inc.
4270 Ivy Pointe Boulevard
Cincinnati, Ohio 45245

Dear Mr. Schmidt:

On March 16, 2009 I received your response to my February 4, 2009 Notice of Violation (NOV). The documentation you submitted included records of testing and maintenance of emergency equipment, hazardous waste manifests, and documentation of fluorescent waste lamps.

On March 25, 2009 Ohio EPA conducted a return to compliance inspection of SENCO Products Plant #2. As is our practice, this inspection was unannounced. The inspection was conducted to determine your compliance with Ohio's hazardous waste laws found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). Dave Altemuehle, Nate Mullen and you represented SENCO. Jeff Smith and I represented Ohio EPA.

PARTIAL RETURN TO COMPLIANCE (PRTC)

Based on the March 25, 2009 inspection and review of your documentation, SENCO has adequately demonstrated abatement of the following violations discovered during our January 22, 2009 inspection:

A3. OAC Rule 3745-52-34 (C)(1)(b), Accumulation time of hazardous waste: Hazardous waste satellite accumulation containers must be marked with the words "Hazardous Waste" or other words that identify the contents of the containers. During the inspection, the 55 gallon satellite hazardous waste adhesive drum located in the fine wire area of the plant was labeled with the words "Hazardous Waste."

A5. OAC Rule 3745-52-11, Hazardous waste determination: Any person who generates a waste must evaluate the waste to determine if the waste is a hazardous waste in accordance with the criteria set forth in OAC Chapter 3745-51. SENCO has elected to manage their waste lamps as universal waste.

In addition, it was noted that the hazardous waste observed during the January 22, 2009 inspection has been shipped to a designated facility, and therefore, no further action is required to address the violations of ORC 3734.02(E) and (F), OAC Rule 3745-52-34(A)(2), OAC Rule 52-34(C)(1)(b) identified in A1 and A2 of the February 4, 2009 Notice of Violation. At the time of the March 25, 2009 inspection no hazardous waste was being stored in excess of 180 days.

NOTICE OF VIOLATIONS (NOVs)

The following violations were rediscovered or newly discovered during the March 25, 2009 return to compliance inspection:

1. OAC Rule 3745-52-34 (A)(2), Accumulation time of hazardous waste:

A generator may for 180 days or less accumulate hazardous waste that is generated on-site without an Ohio hazardous waste permit provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

During the March 25, 2009 return to compliance inspection, a 55 black steel hazardous waste drum containing "paint booth filters" was being stored outside at the south end of the Glue House. This container was being stored without an accumulation start date. SENCO failed to mark the accumulation start date on this container, and therefore SENCO remains in violation of OAC Rule 3745-52-34 (A)(2).

To abate this violation, SENCO must immediately mark the container of hazardous waste with the accumulation start date and manage all containers in accordance with OAC Rule 3745-52-34 (A)(2). Provide documentation confirming that the drum has been marked with the accumulation start date to this office for review.

2. OAC Rule 3745-65-33, Testing and maintenance of equipment:

All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be

tested and maintained as necessary to assure its proper operation in time of emergency. The owner or operator must record the inspections in a log or summary.

According to your records, it appears that the latest inspections of emergency equipment at the Cincinnati Fastener Plant (Plant #2) were conducted on December 17, 2008. During 2008, these inspections were being conducted monthly. However, according to your documents, inspections of hazardous materials response equipment were to be conducted weekly. On April 22, 2009 I received information from you that inspections would now be conducted monthly. Emergency equipment is not being tested and maintained as necessary, in violation of OAC Rule 3745-65-33.

In order to abate this violation, it will be necessary to conduct the following:

- Conduct inspections of all emergency equipment as necessary to ensure its proper operation in time of emergency.

- Provide all completed inspection forms for April, May and June, 2009.

3. **OAC Rule 3745-65-53, required aisle space:**
The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of the above-mentioned purposes.

During the inspection, aisle space between the hazardous waste containers located at the Glue House was obstructed. The containers were too close to one another to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment within the hazardous waste storage area, in violation of OAC Rule 3745-65-53.

To return to compliance, please obtain adequate aisle space around the hazardous waste containers to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency. Please submit documentation to demonstrate SENCO has complied with this requirement.

4. **OAC Rule 3745-66-71, Conditions of containers:**

If a container holding hazardous waste is not in good condition, or if it begins to leak, the owner or operator must transfer the hazardous waste from such

container to a container that is in good condition or manage the waste in another manner that complies with the requirements of Chapters 3745-65 to 3745-69 and 3745-256 of the OAC.

During the inspection, a 55 gallon black, red striped hazardous waste drum located in the Glue House identified as containing "WASTE2235GLUE", appeared to be leaking. The bottom portion of the drum's sidewall was streaked with a black liquid. The liquid appeared to be coming from several corroded pinholes located at the base of the drum. The drum was sitting on a wooden pallet. The wooden pallet, including the concrete floor in which it was sitting on was also stained with the black liquid. The container was not in good condition, in violation of OAC Rule 3745-66-71.

To abate this violation, SENCO must transfer the hazardous waste from such container that is in good condition or manage the waste in another manner that complies with the above requirements. As was discussed during the inspection, an acceptable method would be to place the drum into an over pack drum. SENCO must provide documentation which describes how the leaking drum was managed and how the area, including the pallet and floor, were decontaminated.

5. **OAC Rule 3745-66-73 (A), Management of containers:**

A container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.

During the inspection, the bung hole of a 55 gallon satellite drum of hazardous waste adhesive located in the fine wire area of the plant was open.

During the inspection, you closed the drum by replacing the bung plug. Therefore, SENCO is no longer in violation of OAC Rule 3745-66-73 (A).

6. **OAC Rule 3745-273-13 (D)(1), Waste management – standards for small quantity handlers of universal waste:**

A small quantity generator of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers must and packages must remain closed and must lack evidence or leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

During the inspection, it was observed that SENCO had elected to store its waste lamps in the Glue House. Several taped bundles of 4' and 6' fluorescent lamps

were lying on a wooden pallet. These lamps were not being stored in any container or package. This is not an unacceptable method to manage waste lamps, in violation of OAC Rule 3745-273-13 (D)(1).

In order to abate this violation, SENCO must immediately store its waste lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Please provide documentation (i.e. photograph) to demonstrate compliance with this rule.

7. OAC Rule OAC Rule 3745-273-14 (E), Labeling/marking – standards for small quantity handlers of universal waste:

Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

During the inspection, some waste lamps were labeled with the words, "Used Light Bulbs," other waste lamps were not labeled at all, in violation of OAC Rule 3745-273-14 (E).

In order to abate this violation, SENCO must label or mark clearly each lamp or a container or package in which such lamps are contained with one of the above phrases. Please provide documentation (i.e. photograph) to demonstrate compliance with this rule.

The following violations pertain to the illegal activities of transporting hazardous waste from SENCO's Plant #1 (formerly located at 8485 Broadwell Road, Cincinnati, Ohio) to SENCO's Plant #2 (currently located at 8450 Broadwell Road, Cincinnati, Ohio).

8. ORC 3734.02 (E) and (F)

This law prohibits a person to establish or operate a hazardous waste facility for the storage, treatment, or disposal of any hazardous waste, without being issued a hazardous waste facility installation and operation permit. A hazardous waste facility is a facility that stores, treats, or disposes of hazardous waste which is generated from an off-site source.

On March 25, 2009 you indicated that SENCO had transported hazardous waste from Plant #1 to Plant #2, prior to off-site shipment to a treatment, storage, or disposal facility. The transfer of waste from Plant #1 requires a transport along a public right-of-way to a location that is not considered to be "on-site" as defined in OAC Rule 3745-50-10.

In a previous March 19, 2003 Ohio EPA notice of violation letter, SENCO was transferring hazardous waste from Plant #1 to the Glue House at Plant #2 prior to off-site shipment to a treatment, storage, or disposal facility. SENCO was advised through our March 19, 2003 letter to cease transferring hazardous waste generated at Plant #1 to the Glue House located outside of Plant #2, and begin shipping the waste from Plant #1 to the designated facility.

At the time of the March 25, 2009 inspection SENCO Plant #2 was operating as a hazardous waste facility by storing hazardous waste that was generated off premises at SENCO Plant #1 without having a hazardous waste installation and operation permit. Therefore, SENCO Plant #2 is in violation of ORC 3734.02 (E) and (F).

To abate this violation, SENCO Plant #2 must not treat, store, or dispose of a hazardous waste generated from off-site sources such as Plant #1. Since SENCO Plant #2 violated ORC 3734.02 (E) and (F), SENCO is subject to all applicable general facility standards found in OAC Chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have SENCO begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

GENERAL COMMENTS

1. Universal Waste

SENCO had previously disposed of its GE Ecolux waste lamps in the dumpster. However, it is now SENCO's practice to manage all waste lamps as universal waste. You provided documentation which states that the bulbs consistently pass the TCLP for mercury; no information was supplied for other toxic hazardous constituents of concern such as lead, barium, and cadmium. If you can demonstrate that the bulbs are not hazardous, they can be disposed of with your regular trash. However, since all fluorescent light bulbs (lamps) contain mercury and possibly other heavy metals such as lead, barium and cadmium, Ohio EPA strongly encourages you to continue to manage them according to Ohio's universal waste rules (UWR) regardless of the quantity or their mercury content. If you plan to throw away your lamps, however, you must first determine if they exhibit a characteristic of a hazardous waste (see OAC Rule 3745-52-11). To evaluate waste lamps to determine if they are hazardous, you can either have them tested at an analytical laboratory or use knowledge based on information provided by the manufacturer on the specific lamps, such as reliable, comprehensive and up-to-date analytical data for all hazardous constituents. If your business has analytical data and/or knowledge that demonstrates that the

lamps are non-hazardous for all toxic constituents (not just data on mercury), then those lamps can either be recycled or disposed of with your business' regular trash. However, you must keep documentation of your waste evaluation on-site for at least three years. If the lamps are hazardous, they must be managed according to Ohio's universal waste rules (UWRs) or Ohio's hazardous waste rules. As stated above, hazardous lamps cannot be thrown in the dumpster. If you handle your hazardous waste lamps in accordance with Ohio's hazardous waste rules, you must comply with all applicable rules which can include on-site storage requirements, manifesting, land disposal restrictions (LDR) determination and use of a hazardous waste transporter to ensure delivery to a permitted hazardous waste facility. Handling hazardous waste lamps as a universal waste under the universal waste rules, however, can reduce the extent of the regulatory requirements that you would otherwise comply with. In addition, if you manage your lamps according to Ohio's UWR, you are not required to evaluate the lamps to determine if they are hazardous or to keep documentation of your evaluation on-site (it is presumed that they are hazardous if you manage them as such). Under the universal waste rules, lamps do not count toward your hazardous waste generator status, do not have to be manifested, and can be transported by a common carrier. If you manage your lamps as a universal waste, you must:

- package the lamps in a manner that minimizes breakage and the containers must be designed to contain potential releases due to breakage (this could be the same packaging in which new lamps are shipped from the manufacturer);

- mark the universal waste lamps or their containers with the words "Universal Waste Lamp(s)," "Waste Lamp(s)" or "Used Lamp(s);"

- develop a method that clearly demonstrates the length of time the lamps have been accumulated from the date they became a waste or are received; and

- Ensure delivery of the lamps to another universal waste handler (a business managing universal waste) or a permitted destination facility. A list of Ohio commercial facilities accepting hazardous waste is included with this letter. A copy of this list can also be found at our web site:

  http://www.epa.state.oh.us/dhwm/pdf/accepting.pdf.

In addition to Ohio EPA's list of commercial facilities that accept hazardous waste, we have also created a list of lamp recyclers. A copy of this list can be found at our web site:

http://www.epa.state.oh.us/dhwm/pdf/comp.lamp.ballast.list.pdf.

Two of the Ohio facilities listed on our fluorescent lamp recyclers (universal waste destination facilities) list have permits; Environmental Recycling and U.S.A. Lamp and Ballast Recycling. The remaining Ohio facilities can act as universal waste handlers. This list should not be viewed as an endorsement or approval of these facilities by Ohio EPA. For more information on how to properly manage hazardous waste lamps, see Ohio's the attached document, "Universal Waste Rules for Handlers of Lamps," June 2005. This document can be found on our web page:

http://www.epa.state.oh.us/dhwm/pdf/Universal_Waste_Rules_for_Handlers_of_Lamps.pdf.

2. Generator Closure

Generator closure of hazardous waste accumulation areas is only a requirement for large quantity generators (LQGs). If the business in question is or was a LQG and they are closing their facility, OAC Rule 3745-52-34(A) requires that the generator meet the closure performance standard of OAC Rule 3745-66-11, as well as the applicable disposal or decontamination requirements of OAC Rule 3745-66-14.

Although SENCO Plant #1 did operate as a LQG, it appears that Plant #1 is not subject to generator closure because this facility reportedly only accumulated waste in "satellite accumulation areas" as described in OAC 3745-52-34(C). Satellite accumulation areas are not subject to the requirements of OAC 3745-52-34(A).

3. Cessation of Regulated Operations (CRO)

Certain generators who treat or store hazardous waste are subject to closure, but when a generator handles other regulated materials, they may be subject to the CRO Rule under OAC Rule 3745-352. Again, given the fact that you have ceased operations at SENCO Plant #1, we want to make you aware of Ohio's CRO laws, OAC Chapter 3745-352. Under Ohio's CRO laws, companies that are required to submit annual hazardous chemical reports to the State Emergency Response Commission (SERC) are also required when regulated

operations cease, to secure the facility until all regulated substances are properly removed. SENCO Plant #1 appears that it is not subject to CRO rules because according to Ohio EPA Division of Air Pollution Control SENCO had not submitted SERC reports for its Plant #1 facility. If you have any additional questions regarding this matter please refer to Ohio EPA's guidance document, "Cessation of Regulated Operations (CRO) Program." A copy of this guidance document was left with you during the January 22, 2009 inspection.

This concludes Ohio EPA's findings from the March 25, 2009 inspection of SENCO Products. W ithin 30 days of receipt of this letter SENCO must submit a written response detailing how each violation has been abated, e.g., cover letter, copies of relevant letters and procedures, photographs, manifests, inspection logs, etc., to Ohio EPA Southwest District Office.

Please note that Ohio EPA considers the above violations serious in nature and the company's history of non-compliance with Ohio's hazardous waste laws found in Chapter 3744 of the ORC and Chapter 3745 of the OAC has resulted in SENCO Products being referred to Ohio EPA's Central Office for consideration of escalated enforcement. Should you have any questions regarding this Notice of Violation, please call me at (937) 285-6456. You can also find copies of the rules and other information on the division's web page at: http://www.epa.state.oh.us/dhwm.

Sincerely,

Jeffery H. Stark
District Representative
Division of Hazardous Waste Management

Enclosure

cc: Dinah Crawford, SWDO-DHWM/SWDO, File

JHS/plh

NOTICE:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.