



State of Ohio Environmental Protection Agency

Southwest District Office

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May 27, 2008

Certified Mail

Mr. Steve Bley
Facility Compliance Manager
Clean Harbors Environmental Services, Inc.
4879 Spring Grove Avenue
Cincinnati, Ohio 45232

RE: SPRING GROVE RESOURCE RECOVERY - OHD000816629

Dear Mr. Bley:

On April 21, 2008, Ohio EPA received Spring Grove Resource Recovery's (SGRR) response to the March 26, 2008, notice of violation letter. Based on the information provided, SGRR has adequately demonstrated abatement of the following violations:

1. **Immediate Reporting of Noncompliance, Condition A.20 and OAC 3745-50-58(L)(6)**
2. **Manifest System, Condition B.24 and OAC 3745-54-72(B)**

However, based on the information provided by SGRR and additional information obtained by Ohio EPA, SGRR has violated the following state Hazardous Waste regulations and conditions of its Ohio Hazardous Waste Installation and Operation permit. All violations of SGRR's permit are violations of ORC 3734.11(B).

1. **Duty to Comply, Condition A.5 and OAC 3745-50-58(A):** The Permittee shall comply with all applicable Ohio hazardous waste rules, and all terms and conditions of this permit, except to the extent and for the duration such noncompliance is authorized by the laws of the State of Ohio. Any permit noncompliance, other than noncompliance authorized by the laws of the State of Ohio, constitutes a violation of ORC Chapter 3734 and the rules adopted thereunder and is grounds for enforcement action, suspension, revocation, modification, revision, denial of a permit renewal application or other appropriate action.

As detailed below, SGRR failed to comply with several conditions of its Permit and OAC rules. Therefore, SGRR is in violation of Condition A.5 and OAC 3745-50-58(A).

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- 2. Proper Operation and Maintenance, Condition A.9 and OAC 3745-50-58(E):** The Permittee shall at all times properly operate and maintain the facility (and related appurtenances) to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes, but is not limited to, effective management practices, adequate funding, adequate operator staffing and training, and where appropriate, adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the terms and conditions of this permit.

The information provided details several areas of improper management. For example, the receiving chemist's off-specification procedures, the customer service representative's failure to properly profile the waste, and the compliance officer allowing a substitute profile to be used that bears no similarity in waste characteristics to the original profile. **Based on this information, SGRR is in violation of Condition A.9 and OAC 3745-50-58(E).**

- 3. General Waste Analysis Plan, Condition B.3 and OAC 3745-54-13:** The Permittee shall follow the procedures described in the approved waste analysis plan found in Section C of the approved Part B permit application and the terms and conditions of this permit.

Section C, 2.5.1 Non-Conformance and Rejections of SGRR's permit application states the following:

"Major non-conformance is addressed by contacting the generator and obtaining the correct information for the load. . . Amendments to waste profiles will require written approval from the generator or resubmittal of a new or amended GWMPs or equivalent to SGRR."

"In the event SGRR discovers a discrepancy between the prequalification description of the waste and the waste conformance testing, SGRR will contact the generator and attempt to resolve the discrepancy."

"SGRR will resolve all waste discrepancies or non-conformance issues (as defined in 2.5.1, 2.5.1.1, 2.5.1.2, 2.5.1.3 and 2.5.1.4) within (30) thirty days of acceptance date or the waste will be rejected."

SGRR did not contact the generator to resolve the discrepancy. SGRR did not obtain written approval from the generator prior to changing waste profiles. SGRR did not resolve the waste discrepancy within (30) thirty days of acceptance of the waste or did not reject the waste. **Therefore, SGRR is in violation of Condition B.3 and OAC 3745-54-13.**

- 4. Other Noncompliance, Condition A.22 and OAC 3745-50-58(L)(10):** The Permittee shall report to the Director, all other instances of noncompliance not provided for in Condition A.20. These reports shall be submitted within a month of the time at which the Permittee is aware of such noncompliance. Such reports shall contain all information set forth within Condition A.20 of this permit.

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SGRR did not report to the Director the failure to resolve the waste discrepancy within thirty days or reject the waste. Therefore, SGRR is in violation of Condition A.22 and OAC 3745-50-58(L)(10).

To return to compliance, please submit the report required in Condition A.20.

5. Manifest System, Condition B.24 and OAC 3745-54-71(A)(4):

Condition B.24: In the management of waste at the facility the Permittee shall comply with the provisions of OAC Chapter 3745-52 and OAC Rules 3745-54-71, 3745-54-72 and 3745-54-76 with regard to the manifest system.

OAC 3745-54-71(A)(4): Within thirty days after the delivery, send a copy of the manifest to the generator.

SGRR failed to comply with this condition and rule by not returning a copy of the manifest to the generator within thirty days after delivery. Therefore, SGRR is in violation of Condition B.24 and OAC 3745-54-71(A)(4).

General Comments:

1. Per Condition B.40, General Requirements for Land Disposal Restrictions and OAC 3745-270-07(A)(7): If a generator determines that he is managing a prohibited waste that is excluded from the definition of hazardous waste or waste, or is exempt from regulation as a hazardous waste under rule 3745-51-02 to 3745-51-06 of the Administrative Code subsequent to the point of generation. . .he must place in the generator's files a one-time notice describing such generation, subsequent exclusion from the definition of hazardous waste or waste or exemption from regulation as a hazardous waste, and the disposition of the waste.

Please provide a copy of this notification to Ohio EPA.

2. SGRR's requested that Ohio EPA rescind the violation of Condition A.20 and OAC 3745-50-58(L)(6), Immediate Reporting of Noncompliance, as cited in the March 26, 2008, Notice of Violation. The Permit and Rule specifically designate the Permittee as having the responsibility to notify the Ohio EPA within twenty-four hours of becoming aware of the noncompliance issue. SGRR became aware of the facility's noncompliance on September 18, 2006. The notification on October 3, 2006, by a Clean Harbors' facility in Cleveland of their noncompliance does not comply with SGRR's Permit requirements. This violation will not be rescinded.
3. The initial information provided by Clean Harbors Cleveland (Cleveland) to Ohio EPA on October 6, 2006, is at times inconsistent with information provided by SGRR on April 10, 2008, and additional information in the form of internal e-mails, obtained by Ohio EPA. (see attached)

Cleveland's October 6, 2008, letter states, "The Chemists at Spring Grove determined the pH of the customer drums at 8.0, and communicated this off specification to the appropriate personnel at Spring Grove."

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SGRR's April 10, 2008, response letter states the following:

"6/20/06 - Material is offloaded and analyzed by SGRR receiving personnel. The receiving chemist assigned the material a caustic treatment code with Clean Harbors Cleveland as the designated facility."

"August/06 - SGRR shipping personnel discover the WINWEB system flags an error when they try to ship the material to Clean Harbors Cleveland, because the acidic DOT of the original profile does not match the intended outbound profile. The OFFC is then discovered and the Customer Service Representative (CSR) was then notified."

The first statement from Cleveland suggests the receiving chemist followed proper procedures for the off specification. However, SGRR's comments suggest the off specification wasn't discovered until the shipping personnel tried to ship the waste off-site.

Furthermore, SGRR's comments suggest the CSR was not notified of the discrepancy until sometime in August 2006. However, internal emails between the CSR and SGRR personnel show the CSR was aware of the off specification as early as July 27, 2006. The e-mails also show the CSR asking SGRR personnel if they can use a different profile and SGRR personnel apparently approving the profile change. Even though the profile suggested as a replacement was completely different than the original profile.

The e-mails also show that on August 23, 2006, SGRR was aware of its noncompliance status in regards to the waste discrepancy, with the author indicating, "It is past 30 days and we are in violation of our permit." However, as stated above in violation #4, SGRR did not notify the Ohio EPA of its noncompliance.

Please clarify the above inconsistencies and also provide the information obtained during the internal investigation conducted by Clean Harbors' personnel (referenced in the April 10, 2008, response letter). As a result of the internal investigation, please explain the steps taken by SGRR, beyond verifying that the CSR contacted the generator, and Clean Harbors to ensure the situation does not occur again.

Please submit the above requested information to Ohio EPA within fourteen (14) days of receipt of this letter. If you have any questions, please call me at (937) 285-6093.

Sincerely,



Cathy L. Altman
Division of Hazardous Waste Management

cc: Dinah Crawford, SWDO-DHWM/DHWM File

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.