



State of Ohio Environmental Protection Agency

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June 11, 2008

Mr. Michael E. Jeffries
Jeffries Brothers, Excavating & Paving, Inc.
4634 Woodland Avenue NW
Canton, Ohio 44641

RE: Jeffries Brothers, Excavating & Paving, Inc.
OHD 004 228 003 Canton
Financial Assurance
Notice of Violation

Dear Mr. Jeffries:

On May 19, 2008, I completed a review of the financial assurance documentation on file for the Jeffries Brothers, Excavating & Paving, Inc.'s (Jeffries) facility located at 2633 Eighth Street NE, Canton, Ohio referenced above. I evaluated the facility for compliance with financial assurance requirements set forth in the Ohio Administrative Code (OAC) rules 3745-55-42 through 3745-55-47.

To maintain financial assurance for the above referenced facility, Jeffries maintains a closure, post-closure insurance policy no. CPC 476-24-14 with American Specialty Lines Insurance Company. The Certificate of Insurance for Closure/Post-Closure for the hazardous waste unit SO3-EAF was transferred to Jeffries by Republic Technologies, Inc. (RTI). The policy has a face value of \$3,500,000 and an expiration date of December 31, 2031. The last updated post-closure cost analysis for this facility was submitted on November 8, 2004. **Upon review of the financial assurance documentation, the following violations were found:**

Ohio Administrative Code 3745-55-44(B)

OAC 3745-55-44(B) states that during the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within sixty days prior to the anniversary date (December 31) of the establishment of the financial instrument used to comply with rule 3745-55-45 of the Administrative Code.

Ohio Administrative Code 3745-55-44(E)

OAC 3745-44-(E)(1) states that a copy of the facility's current, detailed post-closure cost estimate prepared and maintained in accordance with OAC 3745-55-44-(A) and (B) must be submitted annually to the director of Ohio EPA. The annual post-closure cost estimate has not been updated since November 8, 2004. Please update the post-closure cost estimate for inflation and submit to me as soon as possible.

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

Ohio Administrative Code 3745-55-45

The wording of the certificate of insurance must be identical to the wording specified in paragraph (E) of rule 3745-55-51 of the Administrative Code. There are a number of differences between Policy No. CPC 476-24-14 and the Certificate of Insurance as well as errors in the policy. For example:

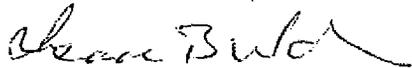
- The policy and the Certificate of Insurance both reference the old EPA ID No. OHD004228003 rather than the new ID No. OHR000110197. The Certificate of Insurance identifies both Jeffries and RTI as the Insured, whereas the policy identifies the Named Insured as only RTI. In addition, the Certificate of Insurance does not list the amount of insurance for closure and/or post-closure required for the facility as required by the State regulations.
- Section V. Territory - this section reads, "This Policy only applies to a Claim arising from Closure Costs or Post-Closure Costs incurred at **Solid Waste Facilities** located in the United States, its territories or possession, or Canada, and only if such Claims are made or brought in the United States, its territories or possessions, or Canada."
- Section VI. Conditions (B) Cancellation - this sections reads, "The Company shall not cancel, terminate or fail to renew the coverages provided herein except for failure to pay the full premium in accordance with the schedule shown in Item 5 in the Declarations. The Company shall notify the Insured and the Regulatory Body of its intent to cancel, terminate, or not to renew by sending, by certified mail, to the Insured at the address shown in this policy and to the Regulatory Body, written notice stating the date not less than 120 days thereafter allowing time for receipt of notice on which such cancellation, termination, or failure to renew shall be effective." **OAC rules require that the 120 days begin after the date noted on the signed returned receipts.** Also noted in this section, "This policy may be canceled by the Named Insured pursuant to applicable statute by surrender thereof to the Company or any of its authorized agents or by mailing to the Company written notice stating the date thereafter the cancellation shall be effective. The mailing of notice as aforesaid shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the Policy Period." **Thus, it appears that the Insured may cancel the policy without notifying the Regulatory Body.**
- Endorsement 3 - this endorsement creates sublimits of liability at \$50,000 aggregate for SO1 (Drum Storage Area) and SO2 (Waste Acid Sump). These areas are also listed on the declarations page. However, these areas are not owned by Jeffries Brothers and are a remnant of the policy when it was used by previous owner/operator RTI. Jeffries Brothers does not have to maintain financial assurance for these units. **As such, Jeffries may want to consider having these other units removed from the declarations page and the endorsement canceled.**

Jeffries Brothers was notified on May 23, 2007, of the above violations. I spoke with Mr. Tim Jeffries on May 31, 2007. He stated that he would get the information together and submit a post-closure cost estimate and update the insurance policy language. As of this date, I have not received any correspondence from your facility.

To abate these violations, Jeffries must submit an updated detailed post-closure cost estimate and a new Certificate of Insurance for Policy No. CPC 476-24-14 with wording identical to that specified in OAC 3745-55-51(E) and consistent with the insurance policy. Also please submit a corrected insurance policy which references only the current owner/operator Jeffries Brothers and the new EPA ID number issued for the SO3 unit: (OHR000110197), as well as the corrected amount of insurance.

If you have any questions, or need further clarification of any matter mentioned in this letter, please do not hesitate to call me at (614) 644-3067. I will be happy to assist you in any way possible.

Sincerely,



Isaac B. Wilder
Compliance Assurance Section
Division of Hazardous Waste Management

cc: Kristina Durnell, RIS, DHWM
Wade Balsler, DHWM, NEDO

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 applicable regulations.

