



**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

August 29, 2011

Ms. Susan Strom
Calfee, Halter, & Griswold LLP
1400 Key Bank Center
800 Superior Avenue
Cleveland, OH 44114-2688

**RE: AMKO Service Company/Praxair Inc.
Financial Record Review – Notice of Violation
OHD 017 998 022**

Dear Ms. Strom:

On August 26, 2011, I conducted a financial record review of documentation on file for AMKO Services Company's (AMKO) former manufacturing facility located at 3470 Davis Road NW, Dover, Tuscarawas County, Ohio (Facility). I evaluated AMKO's records for compliance with the Consent Order entered February 24, 2006, (Consent Order and Judgement Entry, Case No. 92CV070317, State of Ohio, ex rel Jim Petro, Attorney General of Ohio, Plaintiff, vs. AMKO Service Company, Defendants, Tuscarawas County Court of Common Pleas, Judge Thomakos) and Ohio Administrative Code rules 3745-66-42 through 3745-66-47. These rules deal with closure cost estimates, financial assurance mechanisms, and liability coverage respectively. Ohio EPA reported results of our last review of AMKO's closure financial assurance by letter dated May 25, 2010.

To demonstrate financial assurance for closure care, an Irrevocable Standby Letter of Credit (LOC) and a Standby Trust Agreement are used. The LOC, number 68011947, was issued by Bank of America effective March 24, 2006. The current amount of the LOC is \$244,980.00. A standby trust agreement was entered into February 29 2009 by and between AMKO and Citibank, N.A.

To demonstrate third party liability coverage, a Hazardous Waste Facility Certificate of Liability Insurance, with Old Republic Insurance Company (ORIC) was provided, effective June 30, 2009. The ORIC policy, No. MWZZ 50407, satisfies the third-party liability requirements for sudden accidental occurrences. The limits of liability are \$5,000,000 per occurrence and \$5,000,000 in the aggregate, exclusive of legal defense costs.

I found the following violations of Ohio's hazardous waste law. In order to correct this violation you must do the following and send me the required information **within 30 days** of your receipt of this letter:

1. **OAC Rule 3745-66-42(B), Must Adjust Estimate for Inflation:** During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with 3745-55-43 of the Administrative Code.

AMKO has failed to submit an adjusted closure cost estimate for the facility. The last closure cost estimate was submitted on February 26, 2010 for a total of \$244,980.00. The anniversary date of the establishment of the financial instrument, LOC number 68011947, is March 24, 2006. The closure cost estimate should have been adjusted for inflation within sixty days prior to March 24, 2011.

- AMKO must immediately submit an adjusted closure cost estimate. The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent "Implicit Price Deflator for Gross National Product" published by the U.S. department of commerce in its "Survey of Current Business." The annual inflation factor in the February 2011 publication was calculated at 0.96%.

If you have any questions, please feel free to call me at (614) 644-2933 or email me at shawn.sellers@epa.ohio.gov.

Sincerely,



Shawn M. Sellers, P.E.
Engineering, Remediation and Authorizations Section
Division of Materials and Waste Management.

SS/jms

ec: Melody Stewart, DMWM, SEDO

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.