



State of Ohio Environmental Protection Agency

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July 21, 2008

Mr. David Rabbe
President
Tierra Solutions, Inc.
Two Tower Center Blvd.
East Brunswick, NJ 08816

**Re: Hazardous Waste Annual Report Requirement
Former Diamond Shamrock Coke Plant – OHD981781727
Tierra Solutions Inc. One Acre Site – OHD986974681**

Dear Mr. Rabbe:

My review of customer data from Ohio Treatment, Storage, and Disposal Facilities (TSDFs) and manifest data from Michigan's Department of Environmental Quality has revealed that shipments of hazardous waste were received from the former Diamond Shamrock Coke Plant site and from the Tierra Solutions Inc. One Acre site during the 2007 calendar year. The total amount reported, 8898.7 tons and 93 tons respectively, indicates that both of these sites were a large quantity generator in 2007. Since I have not received Hazardous Waste Annual Reports for 2007, Tierra Solutions is in violation of Rule 3745-52-41 of the Ohio Administrative Code (OAC).

In addition to the violation for the 2007 report, the former Diamond Shamrock Coke Plant site has pending Annual Report violations for the years 2004, 2005, and 2006. Violation letters were mailed to the attention of Mr. Paul Dugas in Tierra Solutions' Painesville office. When Mr. Dugas attended a meeting at Ohio EPA's Twinsburg office in the fall of 2007, agency staff reminded him of the pending violations. Ohio EPA has not received a response to any of our letters. Printouts of the shipment information upon which the reporting violations are based for all years are enclosed as well as copies of the previous Notice of Violation letters.

A large quantity generator is defined as a site which generates in any single month more than 1000 kg (2200 lbs) of non-acute hazardous waste or more than 1 kg (2.2 lb) of acutely hazardous waste. This includes wastes from one-time generation as well as wastes from ongoing production processes. It may take only one month of generating above the threshold quantity to subject a site to the Annual Report requirement. The generator is responsible for contacting Ohio EPA in order to obtain the reporting forms.

OAC Rule 3745-52-41 requires a generator who ships any hazardous waste off-site to prepare and submit to the Ohio EPA an **Annual Hazardous Waste Report** and to

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

describe and certify efforts that were made to minimize hazardous wastes. These reports are due March 1 of each year and contain information about the activities of the previous calendar year. Only small quantity generators (between 220 and 2200 lb/mo of non-acutely hazardous wastes) and conditionally exempt small quantity generators (less than 220 lb/mo of non-acutely hazardous wastes) are exempt from the Annual Report requirement as described in OAC Rule 3745-52-44.

To abate the violations of OAC Rule 3745-52-41, Tierra Solutions must complete and submit to Ohio EPA the requested Annual Hazardous Waste Reports within 30 days of receipt of this letter. Failure to respond to this Notice of Violation may result in referral to the Compliance Assurance Section for consideration of escalated enforcement. You may access the reporting forms and instructions on our website at http://www.epa.state.oh.us/dhwm/ann_report.html.

Tierra Solutions should have on file the manifest records necessary for completion of the reports. OAC Rule 3745-52-40 requires generators to keep a signed copy of each manifest for a period of at least three years from the date the waste was accepted by the initial transporter. Receiving facilities and transporters are under a similar requirement; if you need copies of the original manifest(s), contact them for assistance.

If Tierra Solutions is unable to submit all the years' reports at the same time, Ohio EPA would appreciate receiving the 2007 reports first because we must forward Ohio's 2007 Biennial Report data to U.S. EPA no later than September 15. A letter that acknowledges receipt of the reports will be sent to you after they are processed. I can answer questions concerning the Annual Report at (614) 644-2923. Your prompt attention to this matter is appreciated.

Sincerely,



Paula Canter
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Regulatory and Information Services
Division of Hazardous Waste Management
paula.canter@epa.state.oh.us

cc: Central File
Karen Nesbit, DHWM, NEDO

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.