



State of Ohio Environmental Protection Agency

STREET ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

MAILING ADDRESS:

P.O. Box 1049
Columbus, OH 43216-1049

May 20, 2009

MICHAEL W RADCA
USG INTERIORS
1000 CROCKER ROAD
WESTLAKE, OH 44145

eval oil (CD)

**Re: Return to Compliance USG INTERIORS, WESTLAKE - OHD990694192
Receipt of 2007 Hazardous Waste Annual Report**

Dear MICHAEL W RADCA:

I am writing to notify you that I received the 2007 Hazardous Waste Annual Report for your site on August 12, 2008. This report was requested by me in a letter dated August 6, 2008 indicating that USG INTERIORS had not submitted a report for hazardous wastes generated during 2007. The report has been processed and entered into Ohio EPA's Annual Report database, and the violation has been abated.

I recommend you file this letter with your Annual Report records in case there are any questions during an inspection. Feel free to contact me in the future at (614) 644-2891 or maryann.silagy@epa.state.oh.us.

Sincerely,

Mary Ann Silagy
Environmental Specialist 2
Regulatory and Information Services
Ohio EPA - Division of Hazardous Waste Management
maryann.silagy@epa.state.oh.us

cc: Central File
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.





OHD990834483-049-04/23/2009

Hazardous Waste

NOV

THE SCOTTS COMPANY

UNION

04/23/2009



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April 23, 2009

RECEIVED
OHIO EPA

APR 24 2009

DIV. OF HAZARDOUS
WASTE MGT.

Ms. Brenda Abke
Global Environmental Health, Safety & Security
The Scotts Company, LLC
14111 Scottslawn Road
Marysville, Ohio 43041

Re: **The Scotts Company, LLC**
Financial Assurance
~~OHD 990 834 483~~

encl 104 (KD)
enf 049

Dear Ms. Abke:

On April 20, 2009, Ohio EPA conducted a financial record review of the Scotts Company, LLC (Scotts) facility in Marysville, Ohio. I evaluated the facility for compliance with closure, post-closure care and corrective action financial assurance requirements as set forth in the Ohio Administrative Code (OAC) rules 3745-66-44, 3745-66-45 and 3745-54-101(B) and (C).

To meet compliance with financial assurance requirements, Scotts submitted financial assurance documentation to demonstrate compliance with the above post-closure care and corrective action requirements. Scotts submitted a financial test mechanism in March 2007. On April 17, 2007, Scotts submitted a request to decrease financial assurance cost estimates. In June, August and November 2007, alternate financial assurance mechanism in the form of a Letter of Credit was provided to replace the financial test. The Letter of Credit No. TPTS-576917 with JP Morgan Chase and an Amended Standby Trust Agreement were entered into with Ohio EPA and National City Bank.

CONCERNS:

Cost Estimate

The cost estimate submitted with the 2007 financial test included an amount of \$5,571,457.52. Scotts requested the cost estimate be decreased in 2007 to the amount of \$4,464,157.12; and in 2008 to the amount of \$3,810,532.52. However, adequate documentation has not been provided to substantiate the reduced cost estimate. Estimates can be recalculated to reflect a lower cost estimate but documentation from a

third-party must be provided to substantiate the decreased estimates. Scotts must submit third-party vendor quotes to document the decreased cost estimates. The quotes should be detailed and include each unit's labor and equipment cost. The estimate should include where applicable at least: waste removal, transportation, O&M, sampling & analysis, decontamination, security, contingency and engineering cost for each unit.

Letter of Credit Language

Ohio EPA received several versions of a Letter of Credit (LOC). Because of the wording problems with the LOC, Ohio EPA has not officially accepted the LOC. The LOC dated August 2, 2008, would satisfy the wording requirements with the exception of the last paragraph. The signature, date, and title must be included. All extraneous language must be removed from the LOC. Once adequate documentation is provided to Ohio EPA, the director will authorize the bank to decrease the LOC in writing.

Upon review of the above, **Scotts is in violation of OAC rule 3745-66-45** because the wording in the LOC is not adequate. To address the above violation submit an LOC with the exact wording, an appropriate signature, title and date, pursuant to the wording in the OAC rule 3745-55-51(D)

For Ohio EPA to consider decreasing the cost estimate, Scott's should submit vendor quotes to document the modified cost estimate. The cost estimates must be documented with quotes from the vendor.

Please submit the above requested documentation to me within thirty (30) days of the receipt of this letter. If you have any questions about this matter, do not hesitate to contact me at (614) 644-2951.

Sincerely,



Tina Jennings
Compliance Assurance Section
Division of Hazardous Waste Management

cc: Kristina Durnell, RISS, DHWM
Chris Bulinski, DHWM, CDO

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.