



State of Ohio Environmental Protection Agency

Northeast District Office

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

August 26, 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Lanny Lingenfelter
Owner/President
138 West Drive
Lodi, Ohio 44254

RE: ACP WORLDWIDE LLC, OHT 400 014 585, MEDINA COUNTY, RCRA/COMPLAINT #7233, CESQG, NOTICE OF VIOLATION/RETURN TO COMPLIANCE

Dear Mr. Lingenfelter:

On July 24, 2009, Ohio EPA's Division of Hazardous Waste Management (DHWM) conducted a complaint investigation at the ACP Worldwide LLC (ACP) facility located at 138 West Drive in Lodi, Ohio. ACP repackages pesticides and at the time of this inspection qualified as a Conditionally Exempt Small Quantity Generator (CESQG) of hazardous waste.

The purpose of this inspection was to investigate the allegations stated in the complaint and to determine ACP's compliance with Ohio's hazardous waste laws and regulations as found under the Ohio Revised Code and Ohio Administrative Code ("ORC" and "OAC" respectively). ACP was represented by you and Scott Ambrose while Ohio EPA was represented by Karen Nesbit and me. Ohio EPA's inspections included an inspection of the ACP facility and a review of written documentation.

The complaint received by Ohio EPA stated that ACP was dumping waste chemicals out the back door and had been a chronic situation for the last two years. At the time of this inspection, Ohio EPA DHWM observed no dead vegetation, stained grass or soil which may indicate the release of a hazardous waste. Ohio EPA therefore considers the complaint unfounded.

However, the compliance evaluation inspection performed as a part of this complaint investigation revealed ACP has violated the following state hazardous waste regulation:

1. **OAC 3745-279-22(C)(1) Used oil storage requirements for generators:** *Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil."*

ACP generates used oil which is accumulated in containers to be shipped off site for recycling. At the time of this inspection, Ohio EPA observed containers of used oil were not labeled with the words "Used Oil".

Upon being informed of this violation, ACP labeled the containers of used oil with the words "Used Oil". Ohio EPA therefore considers this violation abated, no further action is required. On July 24, 2009 Ohio EPA provided ACP via e-mail, Ohio EPA's guidance on Used Oil Generators.

Ohio EPA has the following comments and concerns which must be addressed:

1. At the time of this inspection, ACP stated that the thirteen (13) five gallon containers observed in the old waste water treatment building belong to Philway, the previous occupant and owner of the property. Ohio EPA advised you to contact Philway to acquire information regarding the nature of the contents and determine if the material is a waste. Ohio EPA wishes to remind ACP that should the material be determined to be a waste, it will then have to be characterized to determine if it is a

- hazardous waste. Please submit to this office information regarding the nature of the contents of the five gallon containers.
2. ACP accumulates empty containers outside for recycling and reconditioning. At the time of this inspection Ohio EPA observed two fiber containers of Bostik glue in poor condition, being accumulated outside along with the empty drums. The fiber drums were deteriorating and beginning to spill the contents onto the ground. Using generator knowledge along with documentation, the facility was able to demonstrate the glue did not contain any hazardous constituents. However, Ohio EPA cautions the facility against managing fiber containers of materials outside where they can be exposed to the elements and deteriorate.
 3. During this inspection, Ohio EPA observed very poor housekeeping practices with respect to materials management and clean up protocols. Ohio EPA does not regulate the packaging and handling of pesticides. I have copied USEPA Region 5 on this letter and urge you to contact David Star at USEPA Region 5 Office of Pesticides at (312) 886-6009, for guidance and information regarding your regulatory responsibilities with respect to the FIFRA program.

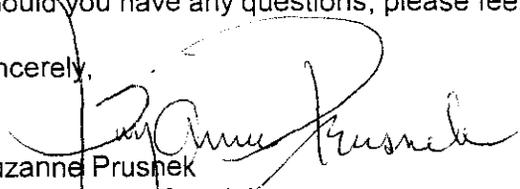
Enclosed you will find copies of the checklists completed at the time of the inspection. Please submit all requested information to my attention within thirty (30) days of receipt of this letter.

The Ohio EPA strongly encourages pollution prevention as the preferred approach for waste management. The first priority of pollution prevention is to eliminate the generation of wastes and pollutants at the source (*i.e.* source reduction). For those wastes and pollutants that are generated, the second is to recycle or reuse them in an environmentally sound manner. You can benefit economically, help preserve the environment and improve your public image by implementing pollution prevention programs. The Office of Compliance Assistance and Pollution Prevention provides compliance and pollution prevention assistance on environmental issues related to air, land and water. Their web site is: <http://www.epa.state.oh.us/opp/ocapp.html>.

The Division of Hazardous Waste Management has created an electronic news service to provide you with updates related to hazardous waste activities in Ohio. You can find more information and sign up for this free service at the following Web link: http://ohioepa.custhelp.com/cgi-bin/ohioepa.cfg/php/enduser/doc_serve.php?2=subscriptionpage.

Should you have any questions, please feel free to call me at (330) 963-1181.

Sincerely,


Suzanne Prushek
Environmental Specialist
Division of Hazardous Waste Management

SP:ddw
Enclosure

cc: David Star, US EPA Region 5
ec: Frank Popotnik, DHWM, NEDO, OEPA
Harry Sarvis, DHWM, CO, OEPA

Failure to list specific deficiencies in this communication does not relieve ACP from the responsibility of complying with all applicable hazardous waste regulations. This letter does not relieve ACP from liability for any past or present violations of the state's hazardous waste laws.

**CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR REQUIREMENTS
COMPLETE AND ATTACH A PROCESS, WASTE, P2 SUMMARY SHEET**

CESQG: #100Kg. (Approximately 25-30 gallons) of waste in a calendar month or < 1 Kg. of acutely hazardous waste.

SQG: Between 100 and 1,000 Kg. (About 25 to under 300 gallons) of waste in a calendar month.

LQG: $\geq 1,000$ Kg. (~300 gallons) of waste in a calendar month or ≥ 1 Kg. of acutely hazardous waste in a calendar month.

NOTE: To convert from gallons to pounds: Amount in gallons x Specific Gravity x 8.345 = Amounts in pounds.

Safety Equipment Used:

WASTE EVALUATION

1. Have all wastes generated at the facility been adequately evaluated? [3745-52-11] Yes No N/A

GENERATOR CLASSIFICATION

2. Does the generator produce <100 kg. of hazardous waste per month? [conditionally exempt small quantity generator ("CESQG")] Yes No N/A

NOTE: If quantities of hazardous waste accumulated on-site at any one time exceed 1,000 Kg. - or the generator produces between 100 and 1,000 Kg. of hazardous waste per month, it is operating as a Small Quantity Generator ("SQG"). If so, complete the Small Quantity Generator Requirements checklist.

OFF-SITE SHIPMENT OF HAZARDOUS WASTE

3. Does the CESQG ensure delivery of hazardous waste(s) to an off-site permitted TSD? [3734.02(F)] No shipments off site. Yes No N/A

TREATMENT OF HAZARDOUS WASTE

4. Does the generator treat hazardous waste in a:
- a. Container that meets 3745-66-70 to 3745-66-77? Yes No N/A
 - b. Tank that meets 3745-66-90 to 3745-66-101 except 3745-66-97(C)? Yes No N/A
 - c. Drip pads that meet 3745-69-40 to 3745-69-45? Yes No N/A
 - d. Containment building that meets 3745-256-100 to 3745-256-102? Yes No N/A

NOTE: Complete appropriate checklist for each unit.

NOTE: If the CESQG conducts treatment they are subject to the LQG requirements.

NOTE: If waste is treated to meet LDRs, use LDR checklist.

REMARKS

USED OIL INSPECTION CHECKLIST (Short Version)

NOTE: This checklist does not include requirements for used oil transporters and transfer facilities, processors and re-refiners, burners, and marketers.

PROHIBITIONS

1. Is used oil being managed in a surface impoundment or waste pile? If so: Yes ___ No N/A ___ RMK# ___
-
Is the surface impoundment or waste pile being regulated under OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-12(A)] Yes ___ No N/A RMK# ___
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2. Is used oil being used as a dust suppressant? [3745-279-12(B)] Yes No ___ N/A RMK# ___
3. Is off-specification used oil fuel burned for energy recovery only in devices specified in 3745-279-12(C)? Yes ___ No N/A RMK# ___
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USED OIL GENERATOR STANDARDS

4. Does the generator mix hazardous waste with used oil only as provided in 3745-279-10(B)? [2745-279-21(A)] Yes ___ No N/A RMK# ___
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5. Does the generator of a used oil containing greater than 1,000 ppm total halogens manage the used oil as a hazardous waste unless the presumption is rebutted successfully? [3745-279-21(B)] Yes ___ No N/A RMK# ___
-
6. Does the generator only store used oil in tanks, containers, or units subject to OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-22(A)] Yes No N/A ___ RMK# ___
-
7. Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)] Yes No N/A ___ RMK# ___
-
8. Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)] Yes ___ No N/A ___ RMK# ___
-
9. Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)]
- a. Stopped the release? Yes ___ No N/A RMK# ___
-

- b. Contained the release? Yes ___ No N/A RMK# ___
- c. Cleaned up and properly managed the used oil and other materials? Yes ___ No N/A RMK# ___
- d. Repaired or replaced the containers or tanks prior to returning them to service, if necessary? Yes ___ No N/A RMK# ___
10. Does the generator burn used oil in used fired space heaters? [3745-279-23] If so: Yes ___ No ___ N/A RMK# ___
- a. Does the heater burn only used oil that owner/operator generates or used oil received from household do-it-yourself (DIY) used oil generators? Yes ___ No N/A RMK# ___
- b. Is the heater designed to have a maximum capacity of not more that 0.5 million BTU per hour? Yes ___ No N/A RMK# ___
- c. Are the combustion gases from heater vented to the ambient air? Yes ___ No N/A RMK# ___
11. Does the generator have the used oil hauled only by transporters that have obtained U.S. EPA ID#, unless the generator qualifies for an exemption pursuant to 3745-279-24 (self transportation or tolling agreements)? [3745-279-24] Yes ___ No N/A RMK# ___

USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

12. Is the DIY used oil collection center in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-30] Yes ___ No N/A RMK# ___
13. Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31] Yes ___ No N/A RMK# ___
14. Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32] Yes ___ No N/A RMK# ___

WASTE EVALUATION

15. Have all wastes generated at the facility been evaluated?
[3745-52-11]

Yes No N/A RMK#

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REMARKS