



State of Ohio Environmental Protection Agency

Northeast District Office

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www.epa.state.oh.us

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

November 13, 2008

John Reese
Ashta Chemicals, Inc.
3509 Middle Road
Ashtabula, OH 44004

**RE: ASHTA CHEMICALS, INC., RCRA/LQG, COMPLIANCE EVALUATION INSPECTION,
OHD 980 793 301, ASHTABULA COUNTY, VOLUNTARY AUDIT DISCLOSURE,
NOTICE OF VIOLATION**

Dear Mr. Reese:

On October 30, 2008, Ohio EPA conducted an Audit Disclosure Investigation of Ashta Chemicals, Inc. (Ashta) located at 3509 Middle Road, Ashtabula, Ohio. Ashta manufactures chlorine gas, potassium hydroxide and chloropicrin utilizing a chlor-alkali process and qualifies as a Large Quantity Generator (LQG) of hazardous waste. Hazardous wastes generated at the facility include mercury contaminated debris (D009), brine purification muds (K071), wastewater treatment sludge (K106), KOH filter sludge (D009), chloropicrin dryer sludge (D001), barium lab waste (D005) and various lab packs (D001, D002, F002).

The purpose of this inspection was to investigate the violations disclosed in Ashta's October 1, 2008 Voluntary Audit Disclosure (VDA) letter to Director Korleski. Ohio EPA's DHWM was represented by me, as Lead Investigator, while Virginia Wilson represented the interests of Ohio EPA's DSW. Ashta was represented by you and Barbara Knecht, an environmental consultant from HzW Environmental, who performed the third party environmental audit.

Ohio EPA's investigation included an entrance interview with you and Ms. Knecht to determine the timeline of events and obtain relevant analytical data for the wastes in question. Ohio EPA also inspected the earthen berm surrounding the nitromethane building where the hazardous waste was land disposed. Ohio EPA also documented portions of the inspection using digital photography. Ohio EPA allowed you to make copies of the digital photographs prior to Ohio EPA leaving the premises.

Based on this investigation, Ohio EPA has determined that Ashta has violated at least the following state hazardous waste regulations:

1. **Ohio Revised Code (ORC) § 3734.02 (E) and (F) creation and operation of a waste pile without a facility installation and operation permit:**

Ashta generated sixty (60) concrete panels from the repair of the ceiling of the cell building. The concrete panels were stored in three stacks on the northwest end of the cell building for a period of approximately two years. This storage of un-containerized hazardous waste constitutes a waste pile. Analytical data has shown the panels to be characteristically hazardous for mercury (D009). Ashta does not have a hazardous waste facility storage permit for the operation of a waste pile.

To demonstrate abatement of this violation, please see Violation #5.

2. **Ohio Revised Code (ORC) § 3734.02 (E) and (F) disposal of hazardous waste without a facility installation and operation permit:**

Ashta has disposed of concrete roof panels generated from the cell building by breaking them up and using them in an earthen berm around the nitromethane building. Analytical data has demonstrated the concrete roof panels are characteristically hazardous for mercury (D009). Ashta does not have a hazardous waste facility permit for the disposal of hazardous waste.

To demonstrate abatement of this violation, please see Violation #5.

Since Ashta violated ORC §3734.02(E) and (F), Ashta is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have Ashta begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

3. **OAC Rule 3745-52-11 Hazardous waste determination:**

Ashta failed to properly characterize the concrete panels generated from the cell building. Core samples taken from the panels were tested for total mercury and not TCLP as required by OAC Rule 3745-51-24. Results of said analytical were either not reviewed or were mis-interpreted. In either case, Ashta failed to properly characterize the concrete panels to determine if the waste was a hazardous waste.

To demonstrate abatement of this violation, please see Violation #5

4. **OAC Rule 3745-270-34(A) Land Disposal Restrictions: Waste Specific Prohibitions – Toxicity Characteristic Metal Wastes:**

Ashta has disposed of concrete roof panels generated from the cell building by breaking them up and using them in an earthen berm around the nitromethane building. Analytical data has demonstrated the concrete roof panels are characteristically hazardous for mercury (D009). Ashta has therefore land disposed a hazardous waste which is prohibited from land disposal.

To demonstrate abatement of this violation, please see Violation #5.

5. **OAC Rule 3745-270-45 Land Disposal Restrictions: Treatment Standards for Hazardous debris:**

Ashta has land disposed of hazardous debris which is characteristically hazardous for mercury (D009) without prior treatment for the toxicity characteristic.

To demonstrate abatement of Violations #1, #2, #3, #4 and #5, Ashta must prepare and submit to Ohio EPA a Closure Plan for the unpermitted hazardous waste management units referred to in Violations #1 and #2. The Closure Plan shall be prepared in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20. Ashta will submit one copy to Ohio EPA's Central Office and two copies to the Northeast District Office in Twinsburg.

Guidance on the development and submittal of a Closure Plan can be found online at:

<http://www.epa.state.oh.us/dhwm/cprg.html>

6. **OAC Rule 3745-52-41 Annual Report:**

Ashta failed to include the generation of the D009 roof panels in its 2005 Annual Hazardous Waste Report.

To demonstrate abatement of this violation, Ashta must amend its 2005 Annual Hazardous Waste Report to include the sixty concrete panels generated from the cell building which have been determined to be hazardous for mercury (D009). Please contact Mary Ann Silagy for additional information on amending a past annual report:

MaryAnn Silagy
Annual Report Coordinator
maryann.silagy@epa.state.oh.us
(614) 644-2891

Ohio EPA Has the following concern which must be addressed:

1. **OAC Rule 3750-25-25 Release notification requirements:** *An owner or operator of a facility or vessel where a hazardous chemical is stored and from which a release of a hazardous substance, extremely hazardous substance, or discharge of oil into the environment has occurred in an amount equal to or exceeding the reportable quantity as set forth under rules 3750-20-50, 3750-20-30, and 3750-25-20 respectfully of the Administrative Code in any twenty-four hour period has occurred, shall provide both verbal and written notices in accordance with paragraphs (A)(1) and (A)(2) of this rule.*

The land disposal of the concrete panels (D009) in July of 2007 has resulted in a release in excess of the Reportable Quantity for mercury. By letter dated October 27, 2008, Ashta submitted a written notification to the National Response Center, as required by OAC Rule 3750-25-25, reporting a release of 14 pounds mercury (the RQ for mercury is one pound). However, Ashta calculated this quantity from the contamination levels of the mercury in the panels, instead of reporting the total weight of the characteristic waste disposed.

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Per OAC 3750-25-10 Unlisted hazardous substances:

Unlisted hazardous substances designated by 40 C.F.R. Part 302 Table 302.4 have the reportable quantity of one hundred pounds, except for those unlisted hazardous wastes which exhibit extraction procedure (TCLP) toxicity identified in 40 C.F.R. Part 261.24. Unlisted hazardous wastes which exhibit TCLP toxicity have the reportable quantities listed in 40 C.F.R. Part 302 Table 302.4 for the contaminant on which the characteristic of TCLP toxicity is based. **The reportable quantity applies to the waste itself, not merely to the toxic contaminant.**

To demonstrate abatement Ashta must amend their release notification to include the total weight of the hazardous waste disposed, not a calculation based upon the level of mercury contamination in the panels. Ashta must submit a copy of the amended report to this office.

Please submit all of the requested documentation to my attention within thirty (30) days of the date of this letter demonstrating that all issues have been addressed.

The Division of Hazardous Waste Management has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio. If you haven't already, we encourage you to sign-up for this free service. You can find more information at the following Web link

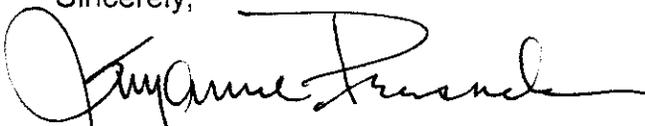
<http://www.epa.state.oh.us/dhwm/listserv.html>

Please feel free to share this information with your colleagues.

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

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

Sincerely,



Suzanne Prusnek
Environmental Specialist
Division of Hazardous Waste Management

SP:ddw

cc: Natalie Oryshkewych, DHWM, NEDO, OEPA
Keith Riley, Assistant District Chief, NEDO, OEPA
Harry Sarvis, DHWM, CO, OEPA
Todd Anderson, Legal, CO, OEPA
ec: Frank Popotnik, DHWM, NEDO, OEPA