OhioEPA

State of Ohio Environmental Protection Agency

Northeast District Office

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

September 14, 2007

Amy Lucia
Environmental, Health & Safety Manager
Erico International, Inc.
34600 Solon Road
Solon, OH 44139

RE: ERICO INTERNATIONAL, INC., OHD 066 049 172, CUYAHOGA COUNTY, RCRA/LQG COMPLIANCE EVALUATION INSPECTION, PARTIAL RETURN TO COMPLIANCE/NOTICE OF VIOLATION

Dear Ms. Lucia:

Thank you for your June 4, 2007 Response to Ohio EPA's April 18, 2007 Notice of Violation (NOV) letter. Erico International, Inc. (Erico) submitted information and documentation including:

- Analytical data and Chain of Custody (COC) from American Testing Company (work order # 070400745) for the following waste streams sampled on April 26, 2007:
    - PH results for the mop water being accumulated in fifty five gallon containers.
    - PH and RCRA metals (TCLP) results for the LP wash water.
    - PH and RCRA metals (TCLP) results for the LP sludge.
    - PH and RCRA metals (TCLP) results for the CRP wash water.
    - PH results for the CRP skimming waste.
    - PH and RCRA metals (TCLP) results for the used coolant.
- A statement from the facility indicating that the underground storage tank (UST) used to accumulate the CRP wash water will no longer be used and will be removed.
- A statement from the facility indicating that Erico plans to treat (neutralize) the CRP waste on site in containers and ship the treated waste off site to Clean Harbors as non-hazardous.

- Copies of inspection log sheets for hazardous waste containers and emergency equipment inspections for:

    - Block house waste (D001).
    - Aluminum bag house waste (D001).
    - LP wash water & sludge (D008).
    - Coolant waste (D008).
    - Main waste storage area.

- Five (5) photographs demonstrating the current Universal Waste (UW) management at the facility indoors and that the previous Universal Waste accumulation area had been cleaned.

- A statement from the facility indicating that employees will be trained in UW management and signed copies of the final protocol will be submitted once the training is complete.

- A copy of the Land Disposal Restriction (LDR) form for the D002 waste shipped out on hazardous waste manifest #03036.

- A statement from the facility indicating that the contingency plan, job titles and descriptions are in process.

- Copies of e-mail correspondences to TSD vendors requesting them to correct Erico's Generator ID number in their files.

- Copies of hazardous waste manifests #11215 and # 03036 with the Generator ID number corrected to reflect Erico's correct Generator ID number.

Documentation received at the Ohio EPA Northeast District office during a meeting with Erico representatives on May 7, 2007 included:

- Analytical data and COC from American Testing Company (work order # 070400086) for the following waste streams:

    - Water accumulated in open fifty five gallon container of UW lamps; tested for RCRA metals (TCLP).
    - Water accumulated in open fifty five gallon container of universal waste batteries; tested for RCRA metals (TCLP).
    - Mop water accumulated in fifty five gallon containers; tested for RCRA metals (TCLP).
    - LP waste; tested for RCRA metals (TCLP).
    - LP sludge; tested for RCRA metals (TCLP).

My review of this documentation reveals that Erico has adequately demonstrated abatement of the following violations cited in Ohio EPA's April 18, 2007 NOV letter:

OAC Rule 3745-52-11 Hazardous waste determination

OAC Rule 3745-66-91 Assessment of existing tank system' s integrity

OAC Rule 3745-66-93 Containment and detection of releases

OAC Rule 3745-66-95 Tank Inspections

OAC Rule 3745-52-34(A)(3) Labeling

OAC Rule 3745-52-34(A)(2) Accumulation Date

OAC Rule 3745-66-74 Inspections

OAC Rule 3745-65-33 Testing and maintenance of equipment

OAC Rule 3745-273-13(D)(1) Universal waste lamp management

OAC Rule 3745-273-14(A) Labeling/marking of universal waste

OAC Rule 3745-273-14(E) Labeling/marking of universal waste

OAC Rule 3745-273-15(C) Accumulation time limits for universal waste

OAC Rule 3745-273-13(D)(2) Universal waste management - standards for small quantity handlers of universal waste

OAC Rule 3745-270-07 Testing, tracking, and record keeping requirements for generators, treaters, and disposal facilities

OAC Rule 3745-52-20(A) Manifest - general requirements

Erico remains in violation of the following state hazardous waste regulations cited in Ohio EPA's April 18, 2007 NOV letter until such time as the facility adequately demonstrates abatement of said violations:

1. ***Ohio Revised Code (ORC) § 3734.02(F) Causing a hazardous waste to be transported to an unpermitted facility:***

   No further action is required at this time.

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

No further action is required at this time.

Since Erico violated ORC §3734.02(E) and (F), Erico 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 Erico begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

3. ***OAC Rule 3745-273-16 Employee training for small quantity handlers of universal waste:*** *A small quantity handler of universal waste shall inform all employees who handle or have responsibility for managing universal waste. The information shall describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.*

At the time of the March 20, 2007 inspection, Ohio EPA observed poorly managed containers of UW lamps and batteries. These observations include:

- Open containers of UW lamps and batteries being accumulated outside exposed to weather and risk of breakage.
- Signs of broken UW lamps due to the quantity and negligent nature in which the UW lamps were accumulated.
- Containers of UW lamps and batteries half-full of precipitation due to poor container management.

On site discussions with Erico employees combined with observations made at the time of this inspection revealed that employees responsible for the management of UW lamps and batteries had not received training in proper UW management.

Erico must develop a written protocol for the proper management of UW managed at the facility. Employees who manage UW must be trained in this protocol. After receiving said training, employees must sign the written protocol acknowledging the receipt of training on this topic and a copy must be submitted to this office.

4. ***OAC Rule 3745-65-52 Content of contingency plan:***

At the time of this inspection, Erico qualified as a Large Quantity Generator (LQG) and did not have a hazardous waste contingency plan meeting the above requirements.

By letter dated June 4, 2007, Erico stated that the facility is in the process of developing a facility contingency plan. To demonstrate abatement of this violation Erico must submit to this office a hazardous waste contingency plan which meets the requirements of OAC Rule 3745-65-52. Erico will submit a copy of said contingency plan to this office for review and approval. An example hazardous waste contingency plan can be found on the Ohio EPA's website at:

http://www.epa.state.oh.us/dhwm/SampleContingencyPlan.doc

5. ***OAC Rule 3745-65-52 Copies of contingency plan:*** *A copy of the contingency plan and all revisions to the plan shall be:*

> *(A) Maintained at the facility; and*
> *(B) Submitted to all local police departments, fire departments, hospitals, and Ohio EPA and local emergency response teams that may be requested to provide emergency services.*

Upon approval by Ohio EPA, Erico will send a copy of the new contingency plan referenced above, to all local police departments, fire departments, hospitals, and local emergency response teams that may be requested to provide emergency services. Erico must document that this has been done and submit said documentation to this office.

6. ***OAC Rule 3745-65-16 Personnel training:***

At the time of the March 20, 2007 inspection, Erico did not have a hazardous waste contingency plan or personnel training program for hazardous waste management as required by Ohio hazardous waste regulations.

Erico must develop a personnel training program which meets all the requirements of OAC Rule 3745-65-16. **The personnel training program must be tailored to hazardous waste management at the Erico facility and specifically cover proper management of the hazardous wastes generated at the facility**. Incorporated into this program will be annual refreshers and a policy to train new employees within six months of their hiring date or transfer to a new position which manages hazardous waste. Erico will train its employees in this plan and the facility contingency plan and submit to this office a copy of the training program, the qualifications of the trainer, a list of employees receiving the training and sign-in sheets demonstrating the training has been performed. Furthermore, Erico will develop job titles and descriptions for all positions that manage hazardous waste which meet the requirements of OAC Rule 3745-65-16(D). The facility will submit to this office:

- A list of employees which fill positions that manage hazardous waste.
- A list of job titles and descriptions for positions involved in hazardous waste management.
- The job descriptions should make clear who has the duty to inspect hazardous waste containers and emergency equipment, to label, date and close hazardous waste containers, to sign manifests, to create annual reports and any other duties regarding the management of hazardous waste.

  Example job titles and descriptions may be found on Ohio EPA's website at:

  http://www.epa.state.oh.us/dhwm/SamplePersonnelTraining.doc

7. ***OAC Rule 3745-52-41 Annual Reports:***

At the time of the March 20, 2007 inspection, Erico generated a corrosive hazardous waste (D002) which was managed in a 1500 gallon UST. Approximately 400 gallons (3,300 pounds) of the D002 hazardous waste was pumped to the UST every three or four months and shipped off site once a year. Based upon information and documentation received at the time of this inspection, this generation and accumulation of hazardous waste qualifies Erico as a LQG of hazardous waste for at least one month during the calendar years of 2006 and 2007. Erico has not submitted Annual Hazardous waste for **all** hazardous waste generated at the facility in 2006.

To demonstrate abatement of this violation Erico must prepare and submit to Ohio EPA Central Office, an Annual Hazardous Waste Report for all hazardous waste generated at the facility during the calendar year of 2006 and submit a copy of said report to this office. Information regarding the preparation and submittal of reports may be accessed online at:

http://www.epa.state.oh.us/dhwm/ann_report.html

You may also contact Paula Canter at (614) 644-2923 for additional information.

Based upon analytical data and documentation submitted by Erico, Ohio EPA has determined that Erico has violated the following hazardous waste regulations:

1. ***OAC Rule 3745-52-11 Hazardous waste determination:*** *Any person who generates a waste in the state of Ohio, as defined in rule 3745-51-02 of the Administrative Code shall determine if that waste is a hazardous waste.*

A. Erico generates an LP wash water/sludge waste stream from a metal parts washing operation. At the time of the March 20, 2007 inspection, Erico was managing this waste stream as non-hazardous and shipping it off-site to Vexor Technologies (Vexor). Analytical data submitted by Erico with the June 4, 2007 response to Ohio EPA's April 18, 2007 NOV letter reveals this waste stream is characteristically hazardous for lead (D008). Therefore, Ohio EPA has determined that Erico failed to properly characterize the LP wash water/sludge waste to determine if it was a hazardous waste.

To demonstrate abatement of this violation, please see below.

B. Erico generates a water soluble coolant waste (coolant waste) from their metal machining operations. At the time of the March 20, 2007 inspection, Erico was managing this waste stream as non-hazardous and shipping it off-site in to Vexor Technologies (Vexor). Analytical data submitted by Erico in response to Ohio EPA's April 18, 2007 NOV letter reveals this waste to be characteristically hazardous for lead (D008). Therefore, Ohio EPA has determined that Erico failed to properly characterize the coolant waste to determine if it was a hazardous waste.

To demonstrate abatement of this violation, Erico must submit to this office the following documentation and information regarding the LP wash water/sludge and coolant waste streams:

a) Detailed narrative of how each of the waste streams is generated (LP wash water/sludge and coolant waste) including any process changes that may have taken place in the last five years.

b) Waste profiles and shipping manifests/documentation for all shipments of the LP wash water/sludge and coolant waste shipped off site to Vexor from 2003 to the present.

c) Information and documentation from Vexor regarding how each waste stream was managed (e.g.; disposed, treated, reclaimed) once it reached the Vexor facility.

d) Information and documentation (manifests, LDR's and current waste profiles) regarding how the LP wash water/sludge and coolant waste streams are being managed at this time, including the generation rate of each waste stream.

2. ***OAC Rule 3745-52-34(A)(3) Labeling:*** *A generator may, for ninety days or less, accumulate and/or conduct treatment of hazardous waste that is generated on-site without an Ohio hazardous waste permit, provided that, while being accumulated and/or treated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste".*

A. At the time of Ohio EPA's March 20, 2007 inspection, Ohio EPA observed at least eight (8) fifty five gallon containers of LP waste (D008) that were not labeled with the words "Hazardous Waste".

B. At the time of Ohio EPA's March 20, 2007 inspection, Ohio EPA observed at least two (2) fifty five gallon containers of coolant waste (D008) not labeled with the words "Hazardous Waste".

On August 8, 2007, Ohio EPA performed a follow-up inspection at the Erico facility. At the time of this inspection, Ohio EPA observed that the containers of LP wash water/sludge and coolant waste being accumulated on site were labeled with the words "Hazardous Waste". Ohio EPA therefore considers this violation abated.

3. ***OAC Rule 3745-52-34(A)(2) Accumulation Date:*** *A generator may, for ninety days or less, accumulate and/or conduct treatment of hazardous waste that is generated on-site without an Ohio hazardous waste permit, provided that the date upon which each period of accumulation and/or treatment begins is clearly marked and visible for inspection on each container.*

A. At the time of Ohio EPA's March 20, 2007 inspection, Ohio EPA observed at least eight (8) fifty five gallon containers of LP wash water/sludge that were not labeled with an accumulation date.

B. At the time of Ohio EPA's March 20, 2007 inspection, Ohio EPA observed at least two (2) fifty five gallon containers of coolant waste were not labeled with an accumulation date.

On August 8, 2007, Ohio EPA performed a follow up inspection at the Erico facility. At the time of this inspection, Ohio EPA observed that the containers of LP wash water/sludge and coolant waste being accumulated on site were labeled with an accumulation date. Ohio EPA therefore considers this violation abated.

4. ***OAC Rule 3745-65-35 Required aisle space****: The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of the above-mentioned purposes.*

At the time of the August 8, 2007 follow up inspection, Ohio EPA observed that the containers of LP wash water/sludge and coolant waste in the new hazardous waste accumulation area in the shipping warehouse did not have adequate aisle space to allow for the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment in the event of an emergency. The containers of hazardous waste were stacked on, or under, containers of non-hazardous waste resulting in a tow-motor operator being summoned to move several drums in order for Ohio EPA to be able to inspect the labels on the containers.

To demonstrate abatement of this violation, Erico must submit to this office documentation in the form of a photograph demonstrating that the containers of hazardous waste are being managed with appropriate aisle space to allow for the unobstructed movement of personnel or emergency equipment, and to facilitate weekly inspections of the new hazardous waste accumulation area located in the shipping warehouse.

Ohio EPA has the following concern which must be addressed:

- On August 23, 2007, Erico informed Ohio EPA via telephone that the underground hazardous waste storage tank system had been closed under the generator closure requirements and that a report was being compiled by Haley and Aldrich. Ohio EPA requests that all information, analytical data and documentation regarding the closure of the underground hazardous waste tank system be submitted to this office for review.

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

Failure to list specific deficiencies in this communication does not relieve Erico from the responsibility of complying with all applicable hazardous waste regulations. This letter does not relieve Erico 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

ec: Frank Popotnik, DHWM, NEDO, OEPA
Harry Sarvis, DHWM, CO, OEPA
cc: Natalie Oryshkewych, DHWM, NEDO, OEPA