

**Environmental  
Protection Agency**

Rep. Schwabert, Governor  
Lee Fisher, Lt. Governor  
Chris Kaneski, Director

December 6, 2010

**RE: MMI SERVICES, INC.  
OHR 000 159 970**

Michael D'Aquila  
MMI Services, Inc.  
4304 Maple St.  
Perry, OH 44081

Dear Mr. D'Aquila:

Thank you for your letter of November 16, 2010. This was in response to my July 19, 2010 letter which dealt with a June 2010 Ohio EPA Division of Hazardous Waste Management inspection of MMI Services located at 4304 Maple Street in Perry, Ohio.

The following will update the status of the two violations cited.

1. Ohio Revised Code (ORC) 3734.02(F) – Causing hazardous waste to be transported to an unpermitted facility.

Your November 16, 2010 letter stated that you will now contain the spent xylene and when needed work with Univar to arrange proper disposal of this hazardous waste. Be sure to not go over the 1,000 kg accumulation limit for a Conditionally Exempt Small Quantity Generator.

2. OAC Rule 3745-52-11 – Hazardous Waste Determination.

- MMI Services violated this rule by not determining whether its containers of waste are hazardous waste. On August 30, 2010, Nathan Turpin of Univar USA, Inc. gave me the results of the sampling of these containers. He included a summary sheet which indicated that drums 3, 8 and 10 contained hazardous waste based on ignitability.

Based on the inspection and my review of the data, I agree that these are the only hazardous waste containers out of the 13 drums listed. High to very high levels of xylene were found in most of the drums which indicates that your listed hazardous waste xylene (F003) had been mixed with other waste. The statements made during the inspections also indicated this. Typically, mixtures containing listed wastes are still listed wastes. F003 listed wastes, however, are a special case since they were listed only for their ignitability.

Ohio Administrative Code (OAC) 3745-51-03(G)(1) states that such wastes are not listed hazardous waste unless they meet the characteristic of ignitability such as the three drums mentioned above. However, OAC 3745-51-03(G)(3) states that such wastes are subject to land disposal restrictions which will be discussed below.

Michael D'Aquila  
MMI Services, Inc.  
December 6, 2010  
Page 2

- We also saw a container labeled "white lacquer primer" which we then labeled as # 14. This was a full 5-gallon container. Please respond as to whether this contains waste, and if so, what you plan to do with it.
- MMI Services also violated this rule by disposing of waste lamps (including fluorescent lamps) with regular trash without determining whether they are a hazardous waste. I have not received any response to this yet. Please send me a description of how you will now properly manage waste lamps.
- MMI Services also violated this rule by not determining whether its contaminated soil is a hazardous waste. We saw contaminated soil along the south side of your building. The sample results submitted indicate that this contaminated soil will not be a hazardous waste when removed. All contamination resulting from hazardous waste accumulation and used oil accumulation must be removed. In addition to this, we suggest that all visually contaminated soil be removed. Please inform me as to when this soil will be removed so that I have the opportunity to be present during the removal.

It appears that the waste generated from sweeping up paint overspray off your floor would not be a hazardous waste. You may be able to dispose of this waste with your regular trash. I suggest you discuss this with your trash hauler. This only applies as long as xylene and other listed solvents are not used in this cleanup.

MMI Services appears to be and has been a Conditionally Exempt Small Quantity Generator (CESQG). In general, this means you do not generate more than 220 pounds of hazardous waste in a calendar month. When you mixed your hazardous waste xylene with floor sweepings (or anything else), you treated the hazardous waste. The only way a CESQG is allowed to do such treatment is if they follow the rules listed in OAC 3745-52-34 which subjects you to land disposal restrictions among other rules.

My e-mail to you dated November 24, 2010 explains this and explains how you need to ship the drums of waste. This waste must be shipped as soon as possible. Please notify me when this shipment has been scheduled and send me a copy of the land disposal restriction notification form before the waste is shipped.

The following additional violations have been found:

1. OAC Rule 3745-270-03(A) – Dilution prohibited as a substitute for treatment.

This rule states that no one is allowed to dilute a land disposal restricted waste as a substitute for adequate treatment to achieve compliance with land disposal restriction treatment standards.

MMI Services violated this rule by mixing its hazardous waste xylene with floor sweepings. The actions and responses described in violation 1 above document your correction of this violation.

Michael D'Aquila  
MMI Services, Inc.  
December 6, 2010  
Page 3

2. Ohio Revised Code (ORC) 3734.02(E) and (F) – Treatment of hazardous waste without a permit.

ORC 3734.02 (E) and (F) state that no person shall establish or operate a hazardous waste facility without a permit and that no person shall store, treat, or dispose of hazardous waste except at a facility with a hazardous waste permit.

MMI Services violated ORC) 3734.02(E) and (F) by treating its hazardous waste xylene without a permit. It is true that a CESQG is allowed to treat its hazardous waste without a permit but only if they follow OAC 3745-52-34. You did not follow that rule because of the dilution violation mentioned above.

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

You can find copies of the regulations and other information on the Division of Hazardous Waste Management web page at <http://epa.ohio.gov/dhwm>.

If you have any questions, please contact me at (330) 963-1217, or [robert.almquist@epa.state.oh.us](mailto:robert.almquist@epa.state.oh.us).

Sincerely,

  
Robert Almquist  
Division of Hazardous Waste Management

RA:cl  
Enclosure

ec: Frank Popotnik, DHWM, NEDO  
Natalie Oryshkewych, DHWM, NEDO  
Ron Shadrach, DHWM, NEDO  
John Palmer, DHWM, NEDO  
Harry Sarvis, DHWM, CO  
Nathan Turpin, Univar USA, Inc.

cc: Marlene Kinney, DHWM, NEDO

Notice:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your facility from its obligation to comply with all applicable regulations.

**From:** Robert Almquist  
**To:** Michael D'Aquila  
**CC:** Frank Popotnik; Nathan Turpin; Randy Ohlemacher; Sherry Slone  
**Date:** 11/24/2010 7:00 PM  
**Subject:** MMI Services

Thank you for your letter dated November 16, 2010. You said you will have Univar profile the waste drums and use a TSDF partner to dispose of them. This is a very good plan. We had our internal EPA meeting regarding this and I can now offer you some more specific guidance on this. Specifically, I agree with the waste determination previously submitted by Univar in that only three drums currently hold hazardous waste. These drums are numbered 3, 8, and 10. These need to be shipped using a hazardous waste manifest which clearly shows they are hazardous waste. When hazardous waste codes are used on a manifest (D001 in this case) it clearly shows that the generator has determined that they are a hazardous waste. This is how those three drums need to be shipped.

Another 4 drums (numbered 1, 6, 12, and 13) are not hazardous waste but also do not meet the required land disposal treatment standards. These also need to be shipped to a TSDF and treated just like the three hazardous waste drums except for the paper work. You need to be careful not to use paper work when shipping these that would indicate they are a hazardous waste. For example, don't put them on a manifest using a hazardous waste code such as D001. The reason for that is that if you do then you are showing that you have determined they are a hazardous waste (which they are not unless you say they are - I know it is strange but it is true). If they are shipped as hazardous waste then you were over the limit a Conditionally Exempt Small Quantity Generator is allow to accumulate and therefore an illegal storage facility and subject to possible fines. These drums do, however, need to be shipped along with a land disposal restriction notification form. This form is typically only used for hazardous waste and you can have the TSDF call me if they want because this is probably not a situation they run into very often.

It would be a good idea to let me review the paperwork before you ship the drums.

The remaining drums (2, 4, 5, 7, 9, 11) can be shipped as nonhazardous waste (except one may be a used oil.) The plan outlined in your letter to dispose of them all at a TSDF is fine but once again do not ship them indicating they are hazardous waste.

I will be revising my letter to you and hopefully get that to you next week. I apologize for the delay and confusion with this. I attribute that mainly to a complicated situation regarding the rules (which you will eliminate by following item #2 of your letter) and some family issues I have had to deal with lately.

Robert Almquist, Ohio EPA, Division of Hazardous Waste Management