



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

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

April 7, 2009

RE: MTD PRODUCTS INC./
SHILOH INDUSTRIES, INC.
CUYAHOGA COUNTY
OHD 059 058 263
NOTICE OF VIOLATION

Ed Waddles
Corporate Environmental Manager
MTD Products Inc.
P.O. Box 368022
Cleveland, OH 44136-9722

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

And at:

5965 Grafton Road
Valley City, Ohio 44280

Dear Mr. Waddles:

On November 26, 2008, Ohio EPA issued a Notice of Violation (NOV) to MTD due to activities associated with site remedial efforts at the 5389 West 130th Street in Parma, Ohio. MTD responded to the NOV in letters dated December 17, 2008, and January 14, 2009. In these letters MTD attempted to further explain how the remedial activities removed the trichloroethylene (TCE) which contaminated, at least some portions of the site.

Based upon these letters and a conference call which took place on December 19, 2008, Ohio EPA has determined, in addition to the violations cited in the November 26, 2008 NOV, MTD has committed the following violation(s):

(1) Unpermitted Treatment, and Disposal - Ohio Revised Code § 3734.02 (E) and (F)

ORC Section 3734.02 (E) states in part that, "...No person shall establish or operate a hazardous waste facility . . . without a hazardous waste installation and operation permit. . ."

ORC Section 3734.02 (F) states in part that, "No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated or disposed of . . . except at or to any of the following: (1) A hazardous waste facility operating under a permit in accordance with this chapter . . ."

MTD unlawfully treated hazardous waste without a permit in violation of ORC § 3734.02(E) and (F) and in a manner inconsistent with the land disposal restrictions found in OAC chapter 3745-270. MTD mixed quicklime with the TCE contaminated soil in a pug mill to treat/remove/reduce the concentration of TCE in the contaminated soil. This treatment, Ohio EPA believes, caused the TCE to be disposed into the air by volatilization of the TCE, in violation of the ORC § 3734.02(E) and (F). MTD did not provide any evidence demonstrating that this practice is a legitimate treatment method (that the TCE was either destroyed or immobilized).

MTD has unlawfully treated hazardous waste contaminated soil at the site. If MTD plans to continue treating contaminated soil at the site, MTD must do so in compliance with OAC rule 3745-52-34(A) and the applicable rules found in OAC chapter 3745-270.

Since MTD created an unlawful hazardous waste management unit with the use of the pug mill to unlawfully treat and dispose of hazardous waste, MTD became subject to all applicable general hazardous waste facility standards, including the requirement to submit a closure plan. Due to the nature of these violations, Ohio EPA requires the submittal of a closure plan pursuant to OAC rules 3745-55-11 through 3745-55-20, OAC rules 3745-55-42 through 3745-55-47 and OAC rule 3745-56-58 at this site.

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

Based on the information that has been submitted and observations at the site, Ohio EPA requests the following information:

1. Please provide the first date in which soil was placed in the containment building.
2. MTD has stated that the vapor degreaser which used TCE at this site was removed in 1978. However, a record review of annual reports for this site reveals that TCE hazardous waste was shipped off site from this site until 1990. Please explain why the source of TCE was removed in 1979 but TCE degreasing hazardous waste was still being shipped off-site eleven years later.

3. In the November 26, 2008 NOV, a comment was included which asked for information demonstrating that the soil did not contain a listed hazardous waste. Additionally, during the December 18, 2008 conference call this issue was discussed in more detail. During that call, a very thorough explanation was provided by Mr. Waddles regarding how the TCE soil contamination was suspected of occurring. Please provide in writing a description of how you believe this contamination occurred.

Should you have any questions, please feel free to call me at (330) 963-1146 or email me at ron.shadrach@epa.state.oh.us.

You can find copies of the rules and other information on the Division's web page at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Ron Shadrach
Division of Hazardous Waste Management

RS:ddw

pc: Terry Hollister, MTD Legal
Randy Brown, MTD Director Facilities Engineering
David Hearne, Cleveland Division of Air Authority
Tamara Mormon, RMT

ec: Frank Popotnik, DHWM, NEDO
Natalie Oryskewetch, DHWM, NEDO
Mitch Mathews, DHWM, CO
Todd Anderson, Legal, CO
Dan Bogoevsky, DSW, 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.