



State of Ohio Environmental Protection Agency

Northeast District Office

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

May 29, 2007

RE: **ZACLON LLC
CUYAHOGA COUNTY
OHD 004 184 768
LQG CEI PARTIAL RETURN TO
COMPLIANCE**

CERTIFIED MAIL

Mr. John Curry
Quality Assurance/Compliance Regulatory Manager
Zaclon LLC
2981 Independence Road
Cleveland, Ohio 44115-3699

Dear Mr. Curry:

On May 2, 2007, Ohio EPA received a letter dated April 30, 2007, from Zaclon LLC submitted in response to the Ohio EPA Notice of Violation (NOV) letter dated November 14, 2005, and Ohio EPA's Partial Return to Compliance letters dated October 23, 2006 and March 30, 2007.

Additional actions and/or information is needed to abate the following violations:

1. *Establishing and operating a hazardous waste facility without a permit and storing hazardous waste without a permit, Ohio Revised Code (ORC) § 3734.02 (E) and (F):*

Violations 1. a and b are in regards to the storage of hazardous waste on the SASH pad and the baghouse dust area near the SASH pad. On November 3, 2005, Susan L. Biro, Chief Administrative Law Judge noted in Section V. CONCLUSION of the "Order On Complainant's Motion for Accelerated Decision on Liability" Docket No. RCRA-05-2004-0019, that Zaclon "stored hazardous wastes, namely SASH and baghouse dust, at their facility without a permit or interim status, in violation of Section 3005(a) of RCRA, 42 U.S.C § 6925(a), and the state regulations implementing this provision, Ohio Administrative Code 3745-50-45."

Therefore these two violations of ORC § 3734.02 (E) and (F) shall remain outstanding until Zaclon has completed closure of the two units and the closure certification has been accepted by the Director of Ohio EPA.

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Zaclon must prepare and submit for Ohio EPA's approval a closure plan in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20 and specifically, OAC rule 3745-56-58(C) for both the waste pile area noted in 1.a and the baghouse area noted in 1.b.

Violation 1.c. is in regards to Zaclon's storage of hazardous waste spent stripping acid from off-site facilities. This is the second count in US EPA's complaint against the facility.

In your response letter, you state that Zaclon no longer uses nor stores stripping acid as an ingredient in the manufacturing process. I spoke with you on the telephone on May 21, 2007, and you stated that the tanks are used to store zinc chloride.

⇒ Ohio EPA has three questions regarding this matter. First, when did Zaclon cease using these tanks for storing stripping acid? Second, what is the source of the zinc chloride in the tanks? Finally, is Zaclon using other ingredients in lieu of the stripping acid?

Additionally, you must submit a closure plan in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20 and specifically OAC rule 3745-55-97 for Ohio EPA's approval for these two tanks.

Violation 1.d. is in regards to Zaclon's storage of hazardous waste brass fines and rolling mill fines in the mid 1990's that was involved in a fire in 2005. This violation of ORC § 3734.02 (E) and (F) shall remain outstanding until Zaclon has completed closure of the unit and the closure certification has been accepted by the Director of Ohio EPA.

Violation 1.e. is in regards to the 14 drums behind Bldg. 25 that were determined to be hazardous waste, either for ignitability or corrosivity. The drums had been on site for greater than 90 days. Per discussions between Ohio EPA and Zaclon during the August 2005 inspection, some of the drums may have been on site for at least five years. This violation of ORC § 3734.02 (E) and (F) shall remain outstanding until Zaclon has completed closure of the unit and the closure certification has been accepted by the Director of Ohio EPA.

Zaclon must submit a closure plan in accordance with OAC rules 3745-55-11/3745-66-11 through 3745-55-20/3745-66-20 for the areas specified above in 1d and 1e.

Violation 1.f. is in regards to storing hazardous waste in Building 13. You must submit a closure plan in accordance with OAC rules 3745-55-11/3745-66-11

through 3745-55-20/3745-66-20 for the building. This violation of ORC § 3734.02 (E) and (F) shall remain outstanding until Zaclon has completed closure of the unit and the closure certification has been accepted by the Director of Ohio EPA.

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

2. ***Maintenance/Design and Operation of Facility, OAC rule 3745-65-31/OAC rule 3745-54-31:*** Facilities shall be operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

While Zaclon has addressed the issues in the accelerator area, Zaclon must control the ongoing releases of hazardous waste from the hazardous waste pile (SASH pile). Zaclon must containerize or somehow remove the material from the pad to eliminate the tracking, run off and wind dispersal of the hazardous waste.

You state in your response that the entire remaining inventory of SASH will be gone by the end of 2007. You state that this will make the previously discussed pad revisions unnecessary.

You also state that the potential for airborne releases is minimal. You support this statement by indicating a composite sample of the SASH was tested and it contained 25% moisture. Additionally, employees who actively manage the SASH completed personal monitoring and were found to have exposure levels well below the allowable limits.

Ohio EPA maintains that the amount of moisture in a composite sample is not indicative of the potential for airborne releases. The surface of the pile is more likely to dry and this is where the airborne release would be generated. And while personal monitoring may indicate that the workers are not exposed to excessive levels of contaminants, it does not indicate that potential for airborne releases.

Therefore, until such time as the SASH has been completely removed from the pad, or has been containerized, this violation will remain outstanding.

Ohio EPA also had the following concerns from the November 14, 2005 NOV:

35. The sludge generated at BLDG #39 has been determined to be non-hazardous.

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While Zaclon states that the process may change, please note that the generator closure requirements found in OAC rule 3745-66-11 and 14 for the accumulation area do apply to this area.

While the rules do not impose a schedule as to when this generator closure must be complete, this concern will remain until documentation is received documenting the generator closure requirements have been met. You state that this will occur before the closing of the facility. Until the closure is completed, no further information is required.

Failure to list specific deficiencies and/or violations in this communication does not relieve Zaclon from the responsibility of complying with all applicable laws, rules and regulations.

Further be advised that any instances of non-compliance can continue as subjects of pending or future enforcement actions.

In accordance with OAC rule 3745-50-30, if Zaclon takes the position that records of Ohio EPA, including correspondence such as this letter, contain trade secret information, Zaclon must provide a request to Ohio EPA which is accompanied by sufficient supporting documentation.

Please respond to this letter in writing by June 29, 2007, and provide all of the information requested above. Should you have any questions or require additional information, please contact Frank Popotnik, my supervisor, or me at (330) 963-1200.

Sincerely,



Karen L. Nesbit
Division of Hazardous Waste Management

KLN.cl

ec: Frank Popotnik, DHWM, NEDO
Harry Sarvis, DHWM, CO

cc: Mitch Mathews, DHWM, CO
Mike Cunningham, USEPA, Region V
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