OhioEPA
State of Ohio Environmental Protection Agency

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

Re: PCS Nitrogen Lima
Complaint #2811
Allen County
Hazardous Waste
OHD 987 054 061
Partial Return to Compliance

January 12, 2009

Mr. Mike Resar, SHE Manager
PotashCorp
PCS Nitrogen Lima
1900 Fort Amanda Road
P.O. Box 1901
Lima, Ohio 45802

Dear Mr. Resar:

Thank you for your December 8, 2008, response to Ohio EPA's October 31, 2008, Notice of Violation letter. The information you submitted included waste evaluation/laboratory analytical results, photographic documentation for satellite containers and universal waste, training documentation, and waste management procedures. My review of the documentation submitted reveals that PCS Nitrogen (PCS) has adequately demonstrated abatement of ~~three~~ ten of the thirteen violations cited in the October 31, 2008, NOV letter. MeB 1-14-09

The following is a summary of the violations cited in the October 31, 2008, NOV and your compliance with respect to each:

1. **ORC Section 3734.02(E)&(F): Unpermitted Hazardous Waste Treatment, Storage or Disposal:**

   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, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following: (1) A hazardous waste facility operating under a permit issued in accordance with this chapter; (2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976" 90 Stat. 2806, 42 U.S.C.A. 6921, as amended.

PCS disposed of a hazardous waste in a solid waste landfill. Specifically, PCS generated insulation from an old ammonia sphere (sphere #4) and had it sampled on August 13, 2008, for waste analysis. Analytical results were received on August 26, 2008. The analytical results for TCLP lead were 9.18 parts per million (ppm), which is above the regulatory limit of 5.0 ppm. At this time the waste should have been managed as a hazardous waste. Instead, on August 27, 2008, PCS contacted the Allen County Health Department (ACHD) and faxed them the analytical results for the insulation to gain approval to dispose of the insulation in the EOLM, Inc., C&DD landfill. On August 29, 2008, I contacted you via telephone to notify you that the ACHD had forwarded the analytical results to Ohio EPA for review. I informed you that the waste was hazardous and that it was to be placed in a closed container that was properly labeled and dated. This call took place at 10:35 a.m. on August 29, 2008, and at that time PCS thought the waste was still located on-site. PCS was unaware that Waste Management picked up the insulation at approximately, 6:00 a.m. that morning and shipped it as a non-hazardous waste to the Jay County C&DD landfill located in Indiana. Because the waste was never properly containerized, dated or labeled "Hazardous Waste", Waste Management had no way of knowing that the waste they took was hazardous.

On December 8, 2008, PCS submitted a copy of an invoice from the Jay County Landfill located in Portland, Indiana. The Jay County Landfill charged PCS for the 12 hours they spent trying to locate the load of hazardous waste that was sent to their facility.

2. **OAC Rule 3745-52-11: Waste Evaluation:**

Any person who generates a waste must determine if that waste is a hazardous waste by using generator knowledge or by testing the waste.

a. PCS had six 55-gallon drums of spent sand blast sand located in the outside hazardous waste storage area that were generated on August 12, 2008. The waste sand blast media was star blast sand that is used in the two small sand blasting units located in the maintenance shop area. The sand blasting units were serviced and the waste was generated in August. PCS did not have waste evaluation documentation for this waste stream.

On September 29, 2008, PCS electronically submitted a copy of the analytical results for the spent sand blast media. The submitted analytical results indicate that the spent sand blast sand is a non-hazardous waste. This sand blast media may be managed as a solid waste.

b. PCS had one 55-gallon drum located in the outside hazardous waste storage area that was open and the contents were unknown. In addition, PCS had one 5-gallon bucket located in the outside hazardous waste storage area where the contents were unknown.

PCS must provide waste evaluation documentation for the one 55-gallon drum and one 5-gallon bucket located in the outside hazardous waste storage area. At the time of our inspection, the contents of these two containers were unknown.

On December 8, 2008, PCS submitted a copy of the analytical results for the 5-gallon bucket of unknown liquid. The results indicate that the mixture contains motor oil, diesel fuel, gasoline, and has a flashpoint greater than 200°F. PCS plans to manage this waste as used oil. In addition, PCS indicated that the content of the 55-gallon drum was identified as used oil. According to the contractor that works in this area, the drum was being used to consolidate partial drums of used oil. This material will be managed as used oil.

With this information, this violation has been completely abated.

3. OAC Rule 3745-52-20(A): Manifest Requirements:

A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a uniform hazardous waste manifest, U.S. EPA form 8700-22 before transporting the hazardous waste off-site.

PCS shipped insulation from an old ammonia sphere (sphere #4) where analytical results for TCLP lead were 9.18 parts per million (ppm), which is above the regulatory limit of 5.0 ppm, off-site without a manifest.

This violation is historical and cannot be remedied. The Indiana Department of Environmental Management may require the Jay County C&DD landfill to prepare an un-manifested waste report for the hazardous waste insulation they received from PCS. If this report is prepared, PCS must submit a copy of the un-manifested waste report to Ohio EPA for our records.

On December 8, 2008, PCS reported that the Indiana Department of Environmental Management was not going to require them to prepare an un-manifested waste report.

This violation is historical and cannot be remedied.

4. OAC Rule 3745-52-34(A)(2): Accumulation time of hazardous waste:

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 waste is placed in containers that have the date upon which each period of accumulation begins clearly marked and visible for inspection on each container.

PCS had one container of waste located in the outside hazardous waste storage area that did not have an accumulation start date. Specifically, one 55-gallon drum of spent aerosol cans did not have an accumulation start date.

PCS must properly label the container of spent aerosol cans with the accumulation start date. To abate this violation, PCS must submit photographic documentation to show that this container in the hazardous waste storage area is properly labeled.

On December 8, 2008, PCS submitted photographic documentation for the drum of spent aerosol cans that is now properly labeled.

With this information, this violation has been abated.

5. OAC Rule 3745-52-34(A)(3): Accumulation time of hazardous waste:

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 waste is placed in containers that are labeled or marked clearly with the words "Hazardous Waste" while being accumulated and/or treated on-site.

PCS had one container of waste located in the outside hazardous waste storage area that was not marked with the words "Hazardous Waste." Specifically, one 55-gallon drum of spent aerosol cans was not marked with the words "Hazardous Waste."

PCS must properly label the container of spent aerosol cans with the words "Hazardous Waste." To abate this violation, PCS must submit photographic documentation to show that the container in the outside hazardous waste storage area is properly labeled.

On December 8, 2008, PCS submitted photographic documentation for the drum of spent aerosol cans that is now properly labeled.

With this information, this violation has been abated.

6. **OAC Rule 3745-52-34(C)(1)(b): Satellite Accumulation: Labeling:**

A generator may accumulate as much as fifty-five gallons of hazardous waste at or near any point of generation provided that the waste is placed in containers that are labeled or marked clearly with the words "Hazardous Waste" or with other words that identify the contents of the containers, while being accumulated on-site.

PCS did not properly label the 55-gallon satellite drum of aerosol cans in the warehouse with the words "Hazardous Waste"

PCS properly labeled the satellite drum of aerosol cans "Hazardous Waste" at the time of our inspection.

Therefore, this violation is considered abated.

7. **OAC Rule 3745-65-16(A)(1): Personnel Training:**

Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements. The owner or operator must ensure that this program includes all the elements described for the type and amount of both introductory and continuing training that will be given to each person filling a position related to hazardous waste management.

PCS failed to ensure that Nicholas Gilbert, HSE Technician, was properly trained in order to perform his duties in a way to maintain the facility's compliance with the hazardous waste requirements. Specifically, when Mr. Gilbert received the analytical results for the insulation from the ammonia sphere (Sphere #4), he did not immediately begin managing it as a hazardous waste. When Ohio EPA spoke to Mr. Gilbert on August 29, 2008, he stated that he was new to the program and was unaware of the regulatory limits for hazardous waste.

PCS must re-train Mr. Gilbert and any other employees involved in the management of hazardous waste, on what the future procedures will be for managing waste once analytical results have indicated that the waste is hazardous. PCS must submit a copy of the information covered in this training session and a copy of sign-in sheets for Mr. Gilbert and any other employees that attend the training.

On December 8, 2008, PCS submitted a copy of the certificate of completion for Mr. Gilbert who attended 31 hours of training on 9/22/08 through 9/26/08. The following topics were covered during this course: RCRA Fundamentals, Critical Generator Issues, Advanced RCRA Topics I & II, and Land Disposal Restrictions I & II.

With this information, this violation has been abated.

8. OAC Rule 3745-65-31: Maintenance and Operation of Facility:

Facilities shall be maintained and 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.

a. PCS does not operate the facility to minimize the possibility of an unplanned release of hazardous waste. PCS had six 55-gallon drums of spent sand blast sand located in the outside hazardous waste storage area that were generated on August 12, 2008. Those drums were in storage for over a month without PCS knowing if this waste stream was a hazardous waste.

b. PCS has also been faxing copies of waste evaluation results to the ACHD requesting assistance in waste determination and possible disposal options.

c. PCS also does not completely understand the hazardous waste regulations and generator status as related to the amount of waste generated in a calendar month. PCS has been operating under the assumption that it is the amount of hazardous waste you ship off-site in a calendar month that determines generator status rather than the regulatory requirement that generators count the amount of hazardous waste generated in a calendar month to determine generator status. PCS incorrectly notified the Indiana Department of Environmental Management that they were a conditionally exempt small quantity generator since they did not "ship" more than 100 pounds of hazardous waste off-site in the month of August. PCS was actually a large quantity generator for the month of August since the facility generated over 1,000 Kg. of hazardous waste.

PCS must develop written internal operating procedures to reflect the need for improved hazardous waste management practices. Safe waste handling procedures, proper waste evaluation procedures and determining generator status are a few items that should be addressed in PCS' internal operating procedures. This violation will be considered abated when PCS submits a copy of this procedure to me at Ohio EPA.

On December 8, 2008, PCS submitted a copy of the revised Waste Management Procedure for the facility. A review of this procedure indicates that it was taken from the standard operating procedures for Ineos. There are several areas throughout this procedure that have language specific to Ineos. For example, on page six, the procedure states "Maximum allowable storage time for wastes in the barrel building is up to one year for waste identified in the RCRA permit and less than 90 days for those wastes not identified in the permit." PCS does not have a RCRA permit. In addition, page eight outlines waste water trailers and references the nitrogen and acrylonitrile plants. PCS must develop internal operating procedures that reflect the hazardous waste management practices specific to your facility.

This violation has not been abated.

9. **OAC Rule 3745-270-07(A)(1): Land Disposal Restrictions:**

A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards by either testing the waste, or by using knowledge of the waste.

PCS failed to notify the disposal facility that the waste insulation from sphere #4 shipped to them for land disposal, did not meet the treatment standards.

To abate this violation, PCS must complete a land disposal restriction (LDR) form and submit it to the Jay County C&DD landfill located in Indiana. PCS must notify the landfill that they accepted a hazardous waste that was restricted from land disposal. PCS must also submit a copy of the LDR form to Ohio EPA.

This violation has not been abated and remains outstanding.

10. **OAC Rule 3745-273-13(D)(1): Universal Waste: Fluorescent Lamp Management:**

All lamps/bulbs being managed as a universal waste must be stored in packages that are structurally sound and adequate to prevent breakage. The packages/containers must be closed.

PCS did not store the spent fluorescent lamps in containers that were closed or structurally sound.

To abate this violation, PCS must submit to Ohio EPA, NWDO, a photograph documenting that the lamps have been put into proper containers or packages.

On December 8, 2008, PCS submitted photographic documentation for the spent fluorescent bulbs that are now properly stored in closed/structurally sound containers.

With this information, this violation has been abated.

On December 8, 2008, PCS submitted a portion of the site services agreement (SSA). The pages submitted outlined the safety and security programs that would be shared by Ineos and PCS. The pages also included items that were excluded where Ineos would not provide PCS with assistance. In addition, updated copies of the emergency coordinator lists for Ineos and PCS were submitted. PCS must ensure that a copy of the shared services agreement that includes an adequate contingency plan is maintained at the facility at all times.

Please submit documentation demonstrating abatement of the above outstanding violations (number 8, 9, and 13) to this office within 15 days of receipt of this letter.

If you have any questions or I can be of assistance, please contact me at (419) 373-3066.

Sincerely,

Melissa L. Boyers

Melissa L. Boyers
Division of Hazardous Waste Management

/csl

pc: Cindy Lohrbach, DHWM, NWDO
Colleen Weaver, DHWM, NWDO
John Schierberl, DHWM, CO
DHWM, NWDO PCS Nitrogen File

ec: Melissa Boyers, DHWM, NWDO
George Ritchotte, Indiana, DEM

Notice:
Ohio's 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.