



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

October 20, 2010

Mr. Craig Weigle
Bailey PVS Oxides
6191 County Road 10
Delta, Ohio 43515

Re: Bailey PVS Oxides
OHR000040931
Fulton County
3rd NOV

Dear Mr. Weigle:

On September 16, 2010, Colleen Weaver and I conducted a Focused Compliance Inspection (FCI) at Bailey PVS Oxides (Bailey) located at 6191 County Road 10 in Delta, Ohio. Mr. Dan Shank, who was Plant Manager at the time, accompanied us during our inspection. We specifically walked the north, west and southwest outdoor areas near the process roaster. We were focused on the cleanup activities that had been done since our last visit on December 4, 2008. We also looked at your hazardous waste storage area and associated paperwork.

Bailey is currently operating as a small quantity generator as they generate more than 25 gallons (or approximately 220 pounds) of K062 hazardous waste per month. Bailey receives spent pickle liquor from the steel industry and processes it to make a usable product, iron oxide, which is used by their sister company, Delta Ferrites, to manufacture an ingredient used in magnetics. Bailey is operating under a variance by Ohio EPA to receive and process K062 listed hazardous waste without a treatment or storage permit.

During the inspection, I found the following violations of Ohio's hazardous waste laws. To correct these violations, you must do the following and submit the requested documentation within 30 days upon receipt of this letter:

1. Waste Evaluation, OAC 3745-52-11:

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

Bailey had four full 55-gallon drums of waste located in the outdoor loading area, that were not labeled. In the past, these drums were identified as K062 hazardous waste.

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At the time of inspection, Mr. Shank identified these as hydrochloric acid waste. The appearance of the waste was that of iron oxide and PPE. Mr. Shank did agree that the drums should have the K062 waste code.

To abate this violation, please send me a description using generator knowledge as to what is contained in the drums, the process generating the waste, and what waste codes apply to the waste. Also, you must include which waste code(s) you intend to use when shipping this waste in the future.

2. Container Management, Accumulation Date Marking, OAC 3745-52-34(A)(2):

Each container that is storing hazardous waste must have an accumulation start date on it. Each container of hazardous waste must be dated on the day it becomes full. As a SQG, you have 180 days to accumulate or store hazardous waste until it must be manifested off site to a permitted treatment, storage, or disposal facility such as the ones you are using.

Bailey failed to label four full 55-gallon drums of K062 waste, located in the outdoor loading area, with the date the accumulation began.

To abate this violation, Bailey must properly label the four drums with the date that the hazardous waste contents were put into the containers. Since your last pick up of hazardous waste was on June 4, 2010, you should ensure that all containers are off-site by December 1, 2010, so that you do not exceed the storage limit of 180 days. Once you have the containers dated, you must submit the pictures to me.

3. Container Management, Labeling, OAC 3745-52-34(A)(3):

All containers that are storing hazardous waste must be marked with the words "Hazardous Waste".

Bailey had four drums of K062 waste in the storage area that were not labeled "Hazardous Waste".

To abate this violation, Bailey must submit pictures of the labeled containers to me at this office.

4. Labeling, Satellite Accumulation Area, OAC Rule 3745-52-34(C)(1)(b)

All satellite containers must be labeled with the words "Hazardous Waste" or with other words that identify the contents of the containers.

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A satellite area is an area where a generator can accumulate as much as 55 gallons of hazardous waste at or near any point of generation where wastes initially accumulated under the control of an operator of the process generating the waste.

Once you have accumulated one drum of K062 (HCL clean up material) and have begun a new container, you must date the container immediately.

Bailey had one drum of hazardous waste K062 in the outdoor loading area which is considered a satellite drum. This drum was not labeled with the words "Hazardous Waste" or other identifying words.

To abate this violation, you must send me a photo documenting the accumulation drum has been properly labeled hazardous waste or with other words indicating what is contained in the drum.

5. Container Management, Weekly Inspections, OAC 3745-66-74:

All areas where containers are stored must be inspected at least weekly looking for leaks and for deterioration caused by corrosion or other factors. These inspections must be recorded in a log or summary.

Bailey was not conducting weekly inspections of the hazardous waste storage area where K062 (HCL clean up material) waste was stored. At the time of our inspection, there were four full drums of K062 waste in the storage area. Weekly inspections must be completed one time every seven consecutive days checking for leaks and for deterioration or other factors. They must be conducted even if your facility is closed or on holiday break.

These inspections must be recorded in an inspection log or summary. (I have enclosed a sample inspection log you can use or you can create your own)

To abate this violation, you must submit four weeks of completed inspection logs to me.

6. Manifesting, Waste Codes, OAC Rule 3745-52-20(A):

A generator who transports or offers for transportation, hazardous waste for off-site disposal must prepare a uniform hazardous waste manifest before transporting the hazardous wastes off-site according to the instructions in the appendix to 40 (Code of Federal Regulations) CFR Part 262. According to the instructions, Item 13, waste codes, must be completed as part of the manifesting process.

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Bailey has been shipping K062 hazardous waste (HCL clean up material) using the waste code D002 (for corrosivity). The actual waste code should be K062 which identifies the waste as being associated with spent pickle liquor from the steel industry

To abate this violation, you must submit to me a copy of the manifest that accompanies your next shipment of hazardous waste (from the drum storage area) off-site. The copy should be signed by the transporter at a minimum.

7. Land Disposal Restriction Form, OAC Rule 3745-270-07(A)(2):

A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed. If the waste does not meet the treatment standard, for the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to the facility receiving the waste. This form is also known as a Land Disposal Restriction (LDR) Form. A copy of this notice must be kept in the generator's file. The notice must include all EPA hazardous waste numbers and manifest number of the first shipment.

Bailey has been shipping hazardous waste (HCL clean up material) using the waste code D002 (for corrosivity). The actual waste code should be K062 which identifies that the waste needs to be treated for chromium, lead and nickel. Therefore, the current Land Disposal Restriction Form accompanying the waste off site is incorrect.

To abate this violation, you must submit a corrected copy of the LDR form to me. You should contact your waste hauler for this form if you need more information. It typically is part of the paperwork included with a manifest.

The following violations were previously cited on July 21, 2006, as a result of our April 12, 2006, compliance inspection. A follow up inspection was also conducted on December 4, 2008. These violations are currently being handled by the Ohio Attorney General's Office. I will list each violation below and discuss any findings from our December 2008 inspection.

**1.a. ORC §3734.02 (E) and (F) Unlawful Disposal of Hazardous Waste/ VWC
V.1.c.
Unpermitted Storage of K062 hazardous waste**

Bailey disposed/stored hazardous waste (K062) on site in the retention pond (surface impoundment) without first obtaining a hazardous waste installation and operation permit. On October 18, 2000, Bailey had a release of K062 spent pickle liquor (SPL) from an above ground storage tank.

Ohio EPA's Division of Emergency and Remedial Response (DERR) reported that 36,000 gallons was released from the storage tank which had ruptured. The SPL released into the storm sewer system on the east side of the tank storage area. SPL was observed in the catch basin in the lot area and in the downstream retention pond. Samples were taken for pH in the storm sewer catch basins (upstream/downstream from the pond), retention pond and in the storm sewer catch basin before discharge from the property on the east side. Samples taken and visual observation proved that SPL was present in all areas. No SPL went off-site because the weir to the retention pond was closed. At the time of our inspection, the weir remained closed. Bailey does not have a permit to discharge wastewater off-site and therefore, all storm drainage is directed to this retention pond.

This release, coupled with K062 run-off (from the entire area north of the warehouse and plant where material was and still is on the ground) to storm sewer catch basins, has caused the retention pond (surface impoundment) to become an unpermitted storage/land disposal unit area for K062 hazardous waste.

During our December 4, 2008, and September 16, 2010, inspections, there did not appear to be any new contamination in this area. There has not been any new releases to the pond since the release of K062 spent pickle liquor (SPL) from an above ground storage tank on October 18, 2000.

**1.b. ORC §3734.02 (E) and (F) Unlawful Disposal of Hazardous Waste/ VWC
V.1.c. Failure to clean up spills and releases of unmarketable Iron Oxide**

Bailey disposed of hazardous waste (K062) on-site. Iron oxide that did not meet the high temperature metals recovery (HTMR) exclusion (OAC rule 3745-51-03(C)(2)(a)(iii)(a)&(b)) remains on the ground and in torn supersacks. This material has been on-site since 1999 and is considered K062 hazardous waste.

During our April 2006, inspection, Mr. Belczyk stated that in 1999, Bailey had accumulated hundreds of supersacks containing at the time reclaimed K062 iron oxide. You stated that these supersacks accumulated on-site in this quantity due to a decrease in the market and the fact that there may have been a quality issue with the iron oxide first produced at the site. The supersacks were located in the southwest quadrant of the facility and in all other "open" areas of the facility. Over time, these supersacks became weathered and torn and began to release iron oxide onto the ground. In 2002, Bailey began to remediate this area. The iron oxide waste was sectioned off by quadrant to determine which sections could be managed as solid wastes - per the HTMR exclusion found in OAC rule 3745-51-03(C)(2)(a)(iii)(a)&(b) and which quadrants would have to be managed as hazardous waste.

The iron oxide from quadrants which met the exclusion was shipped off-site to a solid waste landfill. Ohio EPA did not receive the notification and certification required by OAC rule 3745-51-03(C)(2)(a)(iii)(b) which should have been sent to the Director by December 31, 2005. Bailey must submit this immediately. The rule will provide details on what information should be included.

In the Fall of 2005, Bailey began to screen iron oxide material that did not meet the exclusion to remove debris. By removing the debris, Bailey intended to market this material to PVS Chemicals as a product for use in their ferric chloride production operations (per Bailey letter to Ohio EPA, Amber Hicks, October 19, 2005). However, some of this material remains in a pile on the ground and is not being managed as valuable product. For example, the material in this pile has been exposed to the elements (e.g., runoff, wind dispersal) and truck traffic has been allowed to track the hazardous waste off-site (by backing into it, which was observed during our inspection). If this is a valuable product, it must be containerized and handled properly.

In May 2008, Bailey removed all visually contaminated topsoil, replaced it with new soil and reseeded the area where the supersacks were once staged (located in the west/southwest portion of the property). Bailey shipped seven roll off boxes to EQ Detroit as hazardous waste spent pickle liquor sludge(KO62, D002). In Spring/Summer 2010, clean up continued and several additional shipments of soil meeting the HTMR exclusion were made.

Bailey also disposed of iron oxide material on the ground in the transformer area on the north side of the pump house building. Iron oxide is on the ground in large amounts in this area. We observed approximately 3 inch thick material in this area. This material must be cleaned up and managed as hazardous waste K062.

In Spring 2008, Bailey removed iron oxide material from the paved area and surrounding areas north of the pump house building. In Spring/Summer 2010, more soil was removed and taken off site in this area.

Additionally, there was visual contamination where previously remediated iron oxide material that met the HTMR exclusion and other product was once staged which includes the new construction area (northwest of the facility). Contamination also may be occurring from iron oxide dust blowing into this area. This area must be cleaned up prior to the construction being completed.

In May 2008, Bailey removed all visually contaminated topsoil, replaced it with new soil and reseeded the area where there was iron oxide on the ground (located in the west/northwest portion of the property).

Bailey shipped seven roll off boxes to EQ Detroit as hazardous waste spent pickle liquor sludge(KO62, D002). Construction of Delta Ferrite Joint Venture was completed prior to the clean up. In Spring/Summer 2010, work continued as the seed did not take well. Future plans include possibly asphaltting the area.

Lastly, Bailey must address the area on the west side of the property behind the warehouse. Bailey had staged clinker material, dust collection material and some regular iron oxide material here. Several of the supersack bags were torn and spilling on to the ground and need to be repacked. Mr. Belczyk had stated that these materials should not be outdoors. Ohio EPA is concerned further contamination due to runoff and wind dispersion will occur, causing potentially more extensive remediation of the site. If this is indeed product, it must be handled in the appropriate manner.

During our December 4, 2008, inspection, it was observed that this area is now the location where black oxide is being stored.

In Spring 2009, Bailey is planning to screen iron oxide material that remains and utilize it in the ferrite process. This material is located between the Bailey warehouse and the new plant on the south side of the drive.

In Spring/Summer 2010, the iron oxide material had been removed and utilized in the ferrite process. The area south of the drive near the warehouse has been covered with crushed asphalt material.

Bailey disposed of hazardous waste (K062) on-site. Per condition_V.1.c. of the June 1, 1999, VWC, Bailey is required to manage all unusable residues including iron oxide material, as K062.

Bailey must submit a closure plan to address the areas of contamination discussed in violations 1.a. and 1.b.

During our April 2006 inspection, we observed iron oxide material blowing across the property as a truck was being loaded with product. The loading system was not operating correctly. The ports on the truck were open causing more iron oxide to escape. In addition to submitting a closure plan as stated, Bailey must also provide documentation that the loading system is operating properly and what procedures will be taken in the future to prevent iron oxide from escaping into the air and onto the ground.

As of our December 4, 2008, and September 16, 2010, inspections, no bulk loading is being done at this time. All material is being directly conveyed to Delta Ferrites.

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

**2. ORC §3734.02(F) Unlawful Disposal of Hazardous Waste/ VWC V.1.c.
Disposal of K062 hazardous waste as solid waste**

During the inspection, packing material, debris and sweepings were seen in the solid waste dumpster. You stated that these types of materials are normally managed and sent off site as solid waste. These materials were either coated with K062 waste iron oxide or were K062 iron oxide dust (e.g., sweepings). These materials are typically generated during monthly maintenance shutdowns. Any waste containing SPL or iron oxide is considered hazardous (K062) if it is not put back into your processing as set forth in VWC V.1.c. Bailey is in violation of this law for failing to transport their hazardous waste K062 to a permitted hazardous waste disposal facility.

Bailey must submit information on the ultimate disposal of this hazardous waste. You must submit any manifests, land disposal restriction forms, etc. that accompanied this waste off-site. If the waste went to a solid waste landfill, you must submit to this office, the name and location of the solid waste landfill and date that this material was shipped off-site.

During our December 4, 2008, and September 16, 2010, inspections, we did not discuss the ultimate disposal of this material. You must provide me with this information in writing.

3. Annual Variance Reporting, VWC.V.1.b.

Bailey must report information required in VWC V.1.a. on an annual basis with the first report required due on March 1, 2001. The following is a history of annual reports received by Ohio EPA's Columbus office:

Dates received	Reporting from 2000 due 3/1/01 received 6/5/01
	Reporting from 2001 due 3/1/02 not received
	Reporting from 2002 due 3/1/03 not received
	Reporting from 2003 due 3/1/04 received 10/18/04

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Reporting from 2004 due 3/1/05 received 3/25/05
Reporting from 2005 due 3/1/06 received 3/31/06

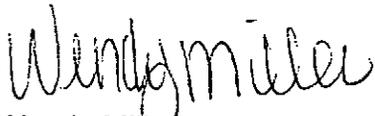
Bailey has not been submitting these reports in a timely manner and also has not submitted the information to Ohio EPA's Northwest District Office which is considered a violation of VWC.V.1.b. To abate this violation, you must submit to me procedures on how you will ensure that these reports are received by March 1st of each reporting year.

***Bailey submitted Reporting from 2006 due 3/1/07 on March 1, 2007.
Bailey submitted Reporting from 2007 due 3/1/08 on March 4, 2008.
Bailey submitted Reporting from 2008 due 3/1/09 on March 18, 2009.
Bailey submitted Reporting from 2009 due 3/1/10 on February 25, 2010.***

Because you have adequately submitted reports for the past nine years, this variance violation is considered abated. You also inserted reporting requirements into your BMP document dated March 24, 2009. This BMP was submitted to me on March 30, 2009.

If you have any questions, please call me at (419) 373-3114 or contact me via email.

Sincerely,



Wendy Miller
Division of Hazardous Waste Management
Ohio EPA, Northwest District Office

/llr

pc: <Bailey PVS-Oxides NWDO File>
Amanda McCartney, AGO, Environmental Enforcement
Colleen Weaver, DHWM-NWDO
Mitch Mathews, DHWM-CO
Cindy Lohrbach, DHWM-NWDO
Mike Allen, DHWM-CO

Send to Central Office <input type="checkbox"/>	Ohio Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM	For Ohio EPA use only
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Completed verification forms required to be submitted to CO should be e-mailed to kristina.durnell@epa.state.oh.us.

Site EPA ID No: Site Name Site Location Information Site Land Type (check only one) NAICS code(s) www.census.gov/epcd/www/naics.html	EPA ID Number: OHR000040931		Website: (Optional)					
	Name: Bailey PVS Oxides							
	Street Address: 6191 County Road 10							
	City, Town, or Village: Delta		State: OH					
County Name: Fulton		Zip Code: 43515						
Private <input checked="" type="checkbox"/>		County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>

Facility Representative Additional names can be recorded in number 12 Only provide address information if it is different than the site address	First Name: Craig		MI:	Last Name: Weigle	
	Title: Plant Manager				
	Phone Number: 419-822-4479			Phone Number Extension:	
	E-Mail Address: craigweigle@baileypvs.com				
	Fax Number:			Fax Number Extension:	
	Street or P.O. Box:				
	City, Town or Village:			State:	
State:			Zip Code:		

Legal Owner And Operator of the Site. List Additional Owners and/or Operators in the Comment Section or on another copy of this form page	Name of Site's Legal Owner:				Date Became Owner (mm/dd/yyyy):				
	Owner Type:	Private <input checked="" type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box:								
	City, Town or Village:				Owner Phone #:				
	State:				Country:		Zip Code:		
	Name of Site's Operator:				Date Became Operator (mm/dd/yyyy):				
	Operator Type:	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box:								
	City, Town or Village:				Operator Phone #:				
	State:				Country:		Zip Code:		

VIOLATIONS CITED? Yes No

TYPE OF HANDLER - MARK "X" AS APPROPRIATE

<input type="checkbox"/> Not a HW Generator	<input type="checkbox"/> UNKNOWN: Cited for violation of 3745-52-11	<input type="checkbox"/> Large Quantity Generator (LQG)
	<input type="checkbox"/> Short-Term Generator (generates from a short-term or one-time event and not from on-going processes). <i>Check the box for the applicable generator status and provide a comment.</i>	<input checked="" type="checkbox"/> Small Quantity Generator (SQG)
		<input type="checkbox"/> Conditionally Exempt Small Quantity Generator
		<input type="checkbox"/> U.S. Importer of Hazardous Waste
		<input type="checkbox"/> Mixed Waste (Hazardous and Radioactive) Generator

TYPE OF REGULATED WASTE ACTIVITY (MARK "X" IN ALL OF THE APPROPRIATE BOXES)

- | | |
|---|--|
| <input type="checkbox"/> Hazardous Waste Transporter | <input type="checkbox"/> Exempt Boiler and/or Industrial Furnace |
| <input type="checkbox"/> Hazardous Waste Transfer Facility | <input type="checkbox"/> Small Quantity On-Site Burner Exemption |
| <input type="checkbox"/> Treater, Storer or Disposer of Hazardous Waste | <input type="checkbox"/> Smelting, Melting, Refining Furnace Exemption |
| <input type="checkbox"/> Recycler of Hazardous Waste | <input type="checkbox"/> Underground Injection Control Facility |
| | <input type="checkbox"/> Receives Hazardous Waste from Off-site |

UNIVERSAL WASTE ACTIVITIES (INDICATE TYPES OF UNIVERSAL WASTE MANAGED (CHECK ALL BOXES THAT APPLY))

- | | |
|---|---|
| <input checked="" type="checkbox"/> Small Quantity Handler of Universal Waste | <input type="checkbox"/> Destination Facility for Universal Waste |
| <input type="checkbox"/> Large Quantity Handler of Universal Waste
(accumulates 5,000 kg. or more) | |

CHECK ALL BOXES BELOW THAT APPLY FOR THE TYPES OF UNIVERSAL WASTE THE FACILITY MANAGES

- Batteries
 Pesticides
 Mercury containing equipment
 Lamps

USED OIL ACTIVITIES (INDICATE TYPE(S) OF ACTIVITY(S))

- Used Oil Generator
 Used Oil Transporter
 Used Oil Transfer Facility
 Used Oil Processor
 Used Oil Re-refiner
 Off-Specification Used Oil Burner
 Used Oil Fuel Marketer Who Directs Shipment of Off-Spec. Oil
 Used Oil Fuel Marketer to Off-Specification Used Oil Burner

Waste Codes for Federally Regulated Hazardous Wastes: Please list the codes for the federally regulated hazardous waste handled at the site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page or list them in the comments if more space is needed. If the waste codes are the same as listed in the most recent RCRAInfo source record, you do not need to list them. Instead just indicate the date of the most recent source record.

K062

COMMENTS: USE THIS AREA TO DESCRIBE WHETHER THE INSPECTION WAS ANNOUNCED, WHETHER THE WASTE IS STORED IN TANKS OR CONTAINERS, ETC.

Announced Yes No Additional Facility Representatives:
 Tanks Yes No
 Containers Yes No

Name of Inspector(s)
Wendy Miller

Name of Inspector(s)
Colleen Weaver

Date of Inspection/Time
 (mm/dd/yyyy) (hh:mm)
09/16/2010 10:00

Comments:

Focused Compliance Inspection, did not look at any wastes other than K062, did not look at Used Oil, UW, etc

PROCESS, WASTE, P2 SUMMARY SHEET

Facility Name: Bailey PVS Oxides Facility Type: SQG Date of Inspection: 9/16/2010 EPA ID#: OHR000040931

Waste Generated			On- or Off-Site Management		P2 Activities	
Process/Activity Generating Waste <small>(e.g. plating bath, machining, baghouse, painting, general maintenance, etc)</small>	Waste Description <small>(e.g. sludge, solvent, ash, used oil, spent lamps, etc.) and EPA Waste Code, if applic.</small>	QTY Generated per Month, Type of Accumulation (container, tank, etc) and location of waste accumulation area	Type of On-Site Treatment <small>(recycle, wwt, etc)</small>	Name, state, and type of activity occurring at the off-site facility.	Current P2 Activities	P2 Opportunities
1	Clean Up – Tank Loading area	Clean up material and PPE K062		Heritage – Petro-Chem		
2						
3						
4						
5						
6						
7						
8						

REMARKS-GENERAL INFORMATION

General Process Information:

Regulatory/Enforcement History (if applicable):

Additional P2 remarks and information:

Would this facility be interested in a P2 assessment? Yes* No *If yes, refer promptly to your district P2 coordinator.
Office of Compliance Assistance and Pollution Prevention - 1-800-329-7518 or p2mail@epa.state.oh.us or www.epa.state.oh.us/ocapp/ocapp.html

Other: