



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

**RE: JK-CO LLC
Hancock County
DHWM, NWDO
Complaint 2824
Partial Return to
Compliance**

February 12, 2009

Mr. Joseph Kurtz
JK-CO LLC
16960 State Route 12 East
Findlay, OH 45840

Dear Mr. Kurtz:

Thank you for sending the electronic mails in response to the Ohio Environmental Protection Agency's (Ohio EPA's) Notice of Violation (NOV) dated December 12, 2008. The electronic mails were received by Ohio EPA on January 19, 2009, and January 28, 2009. The documentation submitted includes photographic documentation of the universal waste lamp storage container, a written description of how the universal waste lamps will be managed, and a bill of lading for the used oil. Ohio EPA also received an electronic mail from Bob Bourne of Eagle Construction on January 26, 2009. This documentation includes analytical results from the used oil contaminated soil sample, the used oil/waste wash water sample, and photographic documentation of the removal of all visible used oil contamination in the area.

The following is a summary of the violations observed during the November 21, 2008, compliance evaluation inspection and the facility's compliance with respect to each violation:

Violations:

1. **Ohio Administrative Code (OAC) Rule 3745-52-11, Hazardous Waste Determination:** "Any person who generates a waste, as defined in rule 3745-51-02 of the Administrative Code, must determine if that waste is a hazardous waste..."

Mr. Joseph Kurtz
February 12, 2009
Page 2

JK-CO LLC (JK) failed to evaluate the following waste streams to determine if they were a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending them off site: a) spent lamps, b) wash water from cleaning the railcar cylinders, and c) paint booth filters.

- a. Spent Lamps-JK failed to have waste evaluation documentation or an established recycling plan in place for all fluorescent lamps generated at the facility.

On January 19, 2009, Ohio EPA received documentation that JK will be managing spent lamps as universal waste and shipping the lamps to Environmental Services in Bowling Green, Ohio to be recycled. This documentation also included photographs of the universal waste lamps container. Ohio EPA could not tell if the container was closed from the photographs.

On January 28, 2009, Ohio EPA verified in a phone conversation with JK that the spent lamps will be recycled at Environmental Recycling in Bowling Green, Ohio. JK also verified that the universal waste lamp container is being kept closed. Ohio EPA would like to remind JK that the containers holding the universal waste lamps must be kept closed at all times unless lamps are being placed into the container.

Therefore, this violation is considered abated on January 19, 2009.

- b. Waste Wash Water-JK currently washes railcar cylinders in the northeast corner of the old building. The waste wash water is mixed with hydraulic oil from the cylinders during the washing process. This mixture drains into a tank that is located outside of the old building. JK currently separates the used oil from the waste wash water. The waste wash water is then dumped outside.

JK failed to evaluate the waste wash water prior to disposal to determine if this waste is a hazardous waste.

Mr. Joseph Kurtz
February 12, 2009
Page 3

On January 26, 2009, Ohio EPA received documentation that included analytical results from the sampling of the waste wash water. These results showed that the waste was non-hazardous.

On January 28, 2009, Ohio EPA received documentation that included a bill of lading showing that Eagle Construction and Environmental removed 1800 gallons of used oil (the waste wash water).

Ohio EPA does not know if this waste wash water was being disposed of as a waste or recycled as used oil. JK must submit information that states where the waste wash water was taken and how it was disposed. If the waste wash water was recycled as used oil, then JK must submit the following information: 1) The US EPA ID number of the transporter of the used oil, 2) The name, address, and US EPA ID number of the destination facility, 3) How the destination facility will recycle the used oil (reconditioning, re-refining, reusing, or burning for energy recovery), and 4) Any agreement from the destination facility that this waste/used oil mixture can be recycled as used oil.

This information must be submitted within 30 days of receipt of this letter.

- c. Waste Paint Booth Filters-JK has most painting done by an outside contractor; however, a small amount of painting is done at the facility. During the inspection, JK stated that JK does not use any paint thinners or solvent based paints, but waste paint booth filters are changed approximately every three months. In order for JK to determine whether the waste paint booth filters exhibit any hazardous waste characteristics, JK must obtain a chemical analysis of a representative sample of the waste paint filters. JK will need to contract the services of an environmental laboratory to analyze this material. JK must at least determine the concentrations of the Resource Conservation and Recovery Act (RCRA) metals and volatile organic compounds (VOCs) in the waste. If the waste paint filters can be considered a liquid as defined in OAC Rule 3745-51-21, then the flashpoint of the material must be evaluated.

Mr. Joseph Kurtz
February 12, 2009
Page 4

Due to the cost of sampling and analyzing this material, JK has the option of analyzing the waste paint booth filters for total RCRA metals and total VOCs. However, based on the results of these tests, a Toxicity Characteristic Leaching Procedure (TCLP) test for RCRA metals and TCLP test for VOCs may also be required.

Based on the results of the analytical tests, JK shall label the container(s) appropriately and dispose of the waste at a proper disposal facility.

JK shall submit the analytical results indicating the proper evaluation of the waste paint filters and appropriate manifest documents or shipping papers indicating proper disposal of the waste paint filters. The results must document if the waste is hazardous or not and, if hazardous, whether it is restricted from land disposal. If the waste is hazardous, JK must explain what treatment, storage, or disposal facility the waste will be sent to.

If the waste is hazardous, I will determine the status of your compliance with other hazardous waste laws and notify you of my findings in a separate letter.

Please notify me at least five days prior to taking the sample(s) so that I may be present.

In a phone conversation on January 28, 2009, Ohio EPA told JK that after review of the Material Safety Data Sheets (MSDSs) for the paint, the waste paint booth filters would still need to be analyzed for RCRA metals and VOCs. To date, Ohio EPA has not received any information from the sampling of this waste stream. The requested information must be submitted to Ohio EPA within 30 days of receipt of this letter.

2. **OAC Rule 3745-279-22 (C)(1), Used Oil Storage Requirements for Generators:** "Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words 'Used Oil.'"

JK failed to mark three used oil drums located outside the old building in the used oil storage area with the words "Used Oil."

This violation was abated on November 21, 2008.

3. **OAC Rule 3745-279-24, Off-site Shipments of Used Oil by**

Generators: "...generators must ensure that their used oil is transported only by transporters who have obtained U.S. EPA identification numbers." Used oil generators have three options for handling their used oil: 1) Generators must have their used oil transported by an entity that has a U.S. EPA identification number and ensure their used oil is recycled; 2) Generators may transport less than 55-gallons of their own used oil to a registered used oil collection center; or 3) Generators may burn its own used oil in an on-site space heater as long as all applicable requirements are met.

JK gave used oil to an employee to burn for heating purposes. JK failed to ensure that the used oil was transported by a transporter who had obtained a U.S. EPA identification number.

In order to abate this violation, JK must choose one of the following and submit the required information to **Ohio EPA within 30 days of receipt of this letter:** 1) Have the used oil picked up by a transporter which has a US EPA ID number. JK must submit documentation (e.g., bill of lading or contract agreement), which includes the transporter and receiving facility information. Also, JK must describe how the used oil is being recycled by the receiving facility (e.g., reconditioning, re-refining, reusing, or burning for energy recovery). 2) Take the used oil to a collection center. JK must submit documentation of the location of the collection center as well as receipt of the used oil by the collection center. JK must also describe how much used oil is transported to the collection center, by whom, and the owner of the vehicle used in the transportation of the used oil. Or, 3) burn the used oil on site in a space heater that complies with the requirements found in OAC rule 3745-279-23. JK must submit documentation that demonstrates compliance with this rule.

To date, Ohio EPA has not received any information in response to this violation. This violation is not corrected.

Mr. Joseph Kurtz
February 12, 2009
Page 6

4. **OAC Rule 3745-279-22 (D), Used Oil Requirements for Generators:**

"Response to releases. Upon detection of a release of used oil to the environment that is not subject to the requirements of Chapter 1301:7-9 of the Administrative Code and which has occurred after October 20, 1998, a generator must perform the following cleanup steps: (1) Stop the release; (2) Contain the released used oil; (3) Clean up and manage properly the released used oil and other materials; and (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service."

JK failed to clean up and properly manage the used oil around the tank and tote located behind the old building.

On January 26, 2009, Ohio EPA received documentation including analytical results from the sampling of the used oil contaminated soil removed from the ground. The analytical results showed that the used oil contaminated soil was non-hazardous. Ohio EPA also received photographic documentation that all visible used oil contaminated soil had been removed from the area.

To date, Ohio EPA has not received any shipping papers, bills of lading, or receipts from the proper disposal of the used oil contaminated soil. JK should submit this information within 30 days of receipt of this letter.

General Concerns:

- A. **Used Oil Tanks:** JK currently has a tote and tank located behind the old building that collects the waste wash water/hydraulic oil mixture from washing the used railcar cylinders. If JK decides to manage this material as used oil and have it recycled, then both the tote and tank should be labeled "Used Oil". It is unknown if these containers are properly labeled at this time. JK should submit a photograph to Ohio EPA showing that these containers are properly labeled "Used Oil" within 30 days of receipt of this letter. If JK decides to manage this material as a waste then JK should submit a short summary describing how this waste will be managed.

Mr. Joseph Kurtz
February 12, 2009
Page 7

JK should also be aware that depending on how much used oil is stored on site at one time, JK may be required to have a Spill Prevention, Control and Countermeasure Plan (SPCC). Within 30 days of receipt of this letter, JK should submit information that includes the capacity of the tank and tote located behind the old building. For more information please refer to the fact sheet titled Understanding the Spill Prevention, Control and Countermeasure (SPCC) Requirements, dated March 2007, that was previously provided by Ohio EPA.

During a site visit on January 14, 2009, Ohio EPA observed the tank and tote at the facility. These containers were properly labeled "Used Oil."

In a phone conversation with JK on January 28, 2009, JK stated that the tank capacity was approximately 1,800 gallons. With this information, Ohio EPA believes that JK is required to have an SPCC. However, Ohio EPA's Division of Hazardous Waste Management does not have jurisdiction over SPCC plans. Additionally, JK has ceased power washing the cylinders (the main used oil generating process) at this time and is looking for other options to replace this process. Please note that JK is still required to comply with the SPCC requirements if JK continues to exceed the quantities described in the fact sheet.

No further information needs to be submitted for this general concern. This general concern is considered addressed.

- B. Metal Shaving from Welding:** During the inspection, JK stated that the majority of the metal shavings from welding are placed in hoppers along with other scrap metal for recycling. However, occasionally an employee will sweep this material up and place it in the trash instead. Prior to this material being disposed of in the solid waste landfill, JK needs to verify that it is a non-hazardous waste.

This general concern serves as a reminder to JK and is considered addressed.

- C. **Parts Washer:** During the inspection, JK stated that the parts washer fluid had not yet been changed. From Ohio EPA's inspection, it does not appear that this liquid is part of a continued use program. When JK decides this fluid is no longer useful and becomes a waste, then JK will need to have this fluid analyzed prior to disposal. JK must analyze a representative sample of this material for TCLP RCRA metals, TCLP VOCs, flashpoint, and pH to determine if this waste is a hazardous waste and how to properly dispose of this waste. If this spent parts washer fluid is a hazardous waste, then it will count towards JK's hazardous waste generator status. However, if JK decides to use parts washer fluid that is enrolled in a continued use program, then this waste stream would not count towards JK's hazardous waste generator status.

Also, if there is a filter on the parts washer, then this filter should also be evaluated when spent to determine if it is a hazardous waste prior to disposal. If a representative sample is taken for this evaluation, then the sample should be analyzed by an environmental laboratory for TCLP RCRA metals, TCLP VOCs, flashpoint, and pH. However, it is possible that this filter may be recycled as scrap metal after it has been drained. JK should check with local scrap metal recyclers to determine if it can be recycled as scrap metal.

This general concern serves as a reminder to JK and is considered addressed.

- D. **Solids from Cylinder Washing:** Any solids that are generated during the process of washing of the railcar cylinders (scraping the cylinder prior to washing or scraping the sides of the washing area) must be evaluated prior to disposal. It is unclear if the solids generated by JK were washed down the drain and into the tank containing the waste wash water/hydraulic oil mixture or if these solids were picked out of the waste wash water mixture and disposed of separately in the solid waste landfill. If these solids were disposed of at the solid waste landfill, JK cannot continue to dispose of this waste stream in this manner without first evaluating the waste to determine if it is a hazardous waste.

During a site visit on January 14, 2009, JK stated that the process of power washing the cylinders has been ceased until further notice. Other options to replace this process are being researched at this time. Therefore, no solids are being generated. Ohio EPA would like to remind JK that if any solids are generated in the future, these solids need to be properly evaluated prior to disposal.

No further information needs to be submitted for this general concern. This general concern is considered addressed.

- E. Current Painting Operations:** During the inspection, JK stated that JK does not use any paint thinners or solvent based paints, but waste paint booth filters are changed approximately every three months. Within 30 days of receipt of this letter, JK should submit a detailed description of the painting operation that currently takes place at the site. This should include the following information: what is being painted, how often the paint booth is used in a month, Material Safety Data Sheets (MSDSs) for the most commonly used paints at the site, how the paint guns are cleaned, what happens to waste paint, and if water based paints are used where does the water go from the cleanup of the painting process?

During a site visit on January 14, 2009, JK submitted MSDSs for the paint used at the facility to paint the cylinders. JK stated that the paints used are water based paints and that the paint guns are cleaned using water. JK stated that no waste paint is generated, however, paint filters and water from cleaning the guns are generated. Unfortunately, JK's manager of the painting area recently passed away. Therefore, JK does not know how often the paint booth was being used or what was being done with the water generated from cleaning the paint guns.

In order to address this general concern, JK must determine if the water from cleaning the guns is hazardous waste. JK must then submit information describing how JK will properly dispose of this waste.

- F. Future Sandblasting/Painting Building:** JK stated that in the future, they are planning on building a separate building to contain sand blasting and painting operations. Prior to starting these operations, Ohio EPA recommends that JK contact the Agency to discuss any new waste streams that may be generated. All wastes must be evaluated prior to disposal.

This general concern serves as a reminder to JK and is considered addressed.

Mr. Joseph Kurtz
February 12, 2009
Page 10

Should you have any questions, please feel free to call me at (419) 373-3065. Please send all correspondence **within 30 days of receipt of this letter** to Ohio EPA, Northwest District Office, Attn: Kara Reynolds, 347 North Dunbridge Road, Bowling Green, Ohio 42402.

Sincerely,

Kara Reynolds

Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/csl

cc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
<DHWM; NWDO Hancock County File: JK-CO:LLC>

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.