



State of Ohio Environmental Protection Agency

Northwest District Office

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Bowling Green, OH 43402-9398

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www.epa.state.oh.us

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

Re: **Complaint #2731**  
America's Best  
Lucas County  
OHR000150177  
Hazardous Waste  
Return to Compliance

July 23, 2009

Mr. Pravien Patel, Manager  
America's Best  
5502 Monroe Street  
Sylvania, Ohio 43560

Dear Mr. Patel:

Thank you for your July 15, 2009, response to Ohio EPA's June 26, 2009, 3<sup>rd</sup> Notice of Violation/Partial Return to Compliance letter. Your attorney, Mr. Kenneth Wenninger, submitted the July 15, 2009, response letter on your behalf. The information included in the letter from the Law Offices of Kenneth Wenninger, LLC, outlined your intentions for the storage of still usable bulbs located at your facility. My review of the documentation submitted reveals that America's Best (AB) has adequately demonstrated abatement of the violations cited in the June 26, 2009, Notice of Violation/Partial Return to Compliance letter.

The following is a summary of all of the violations cited and your compliance with respect to each:

**1. 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.

AB failed to have waste evaluation documentation or an established recycling plan in place for the fluorescent bulbs generated at the facility.

Hazardous bulbs are considered "spent materials" and remain hazardous waste even when recycled. Hazardous waste lamp generators have the option of handling their lamps as hazardous waste or as universal waste. Managing hazardous waste lamps under the universal waste rules eases certain regulations imposed on generators of spent lamps.

Please be aware that incandescent, fluorescent, metal halide, neon, high-intensity discharge, high-pressure sodium and mercury-vapor lamps could be hazardous waste when discarded. Fluorescent lamps may contain up to 40 milligrams (mg) of mercury, depending on the brand and manufacturer. Lamps may also contain lead and cadmium. Many lamps exhibit a characteristic of toxicity for heavy metals when disposed.

AB must submit to Ohio EPA documentation to demonstrate how you plan to properly manage your fluorescent bulbs. If AB decides to conduct waste sampling, please notify me at least seven days prior to the sampling event date so that a representative from Ohio EPA can be present to observe the sampling and to split samples if necessary. If AB plans to manage the spent fluorescent bulbs as universal waste, please submit photographic documentation showing the storage containers properly closed, labeled and dated. AB must also properly train employees who handle, or have responsibility for managing, universal waste on waste handling and emergency procedures relative to their responsibilities. In addition, AB must submit the name of the facility where you plan to recycle the bulbs.

**On June 9, 2009, you notified Ohio EPA that you were managing your spent fluorescent bulbs as universal waste. You agreed to meet with me at your facility to review your paperwork and documentation for the management of your spent fluorescent bulbs.**

*Therefore, this violation is considered abated.*

On June 12, 2009, Ohio EPA conducted a universal waste compliance inspection. As a result of my visit, the following additional violations were discovered:

**2. 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.

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

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

***On July 15, 2009, the Law Offices of Kenneth Wenninger, LLC, submitted a response on your behalf. This letter stated that you replaced all of your fluorescent bulbs with high performance bulbs. The bulbs you have in storage are the old bulbs that were removed when the new bulbs were installed, however, those bulbs are still usable. AB plans to keep these usable bulbs in case this store or another location needs replacement bulbs. According to the records you had on-site during Ohio EPA's inspection on June 12, 2009, the new high performance bulbs were installed on February 19, 2008. AB does not consider the bulbs currently in storage to be universal waste since they are still usable.***

*Therefore, this violation has been abated.*

**3. OAC Rule 3745-273-14(E): Universal Waste: Fluorescent Lamp Labeling:**

All packages and containers holding spent fluorescent lamps/bulbs are to be labeled with the words "Universal Waste - Lamps", "Waste Lamps" or "Used Lamps".

AB did not have their spent fluorescent bulbs properly labeled.

To abate this violation, AB must submit to Ohio EPA, NWDO, a photograph documenting that the lamps or containers in which they are stored have been properly labeled with the words "Universal Waste - Lamps", "Waste Lamps" or "Used Lamps".

***On July 15, 2009, the Law Offices of Kenneth Wenninger, LLC, submitted a response on your behalf. This letter stated that you replaced all of your fluorescent bulbs with high performance bulbs. The bulbs you have in storage are the old bulbs that were removed when the new bulbs were installed, however, those bulbs are still usable. AB plans to keep these usable bulbs in case this store or another location needs replacement bulbs. According to the records you had on-site during Ohio EPA's inspection on June 12, 2009, the new high performance bulbs were installed on February 19, 2008. AB does not consider the bulbs currently in storage to be universal waste since they are still usable.***

***Therefore, this violation has been abated.***

**4. OAC Rule 3745-273-15(A): Accumulation Time for Universal Waste Batteries and Lamps:**

A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated.

AB had twelve spent fluorescent bulbs in storage at the time of my site visit. On February 19, 2008, Southern Reflections changed out twelve bulbs and replaced them with new ones that have a five year warranty. The twelve spent fluorescent bulbs were left at the facility and have been in storage ever since. AB has stored universal waste on-site for greater than one year.

AB must immediately ship off-site for recycling all universal waste that has been on-site for greater than one year. To abate this violation, a copy of the receipt for the universal waste shipped off-site must be submitted to Ohio EPA for review.

***On July 15, 2009, the Law Offices of Kenneth Wenninger, LLC, submitted a response on your behalf. This letter stated that you replaced all of your fluorescent bulbs with high performance bulbs. The bulbs you have in storage are the old bulbs that were removed when the new bulbs were installed, however, those bulbs are still usable. AB plans to keep these usable bulbs in case this store or another location needs replacement bulbs. According to the records you had on-site during Ohio EPA's inspection on June 12, 2009, the new high performance bulbs were installed on February 19, 2008. AB does not consider the bulbs currently in storage to be universal waste since they are still usable.***

***Therefore, this violation has been abated.***

**5. OAC Rule 3745-273-16: Universal Waste Employee Training:**

A small quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

AB has not ensured that all employees are thoroughly familiar with proper universal waste handling and emergency procedures.

In order to correct this violation, AB must describe, through a training outline, how it will thoroughly familiarize (train) its universal waste fluorescent bulb handlers in proper handling and emergency procedures. AB must submit some form of documentation demonstrating that this training has been accomplished. The training must also include compliance with all rules for the handling of universal waste bulbs and the corrective actions for all violations of universal waste rules, cited above. Copies of two universal waste guidance documents are enclosed. Please review this information and contact me if you have any questions.

Mr. Pravien Patel  
July 23, 2009  
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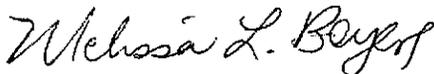
*Therefore, this violation has been abated.*

**Area of Concern:**

Ohio EPA would like to comment that if the fluorescent bulbs currently in storage are actually usable, AB should be storing them in a manner that shows they have value. Enclosed is a photograph that was taken on June 12, 2009, showing the fluorescent bulb storage container. This container is not closed and the bulbs are sticking out of the top of the box. This manner of storage does not protect these bulbs from being broken and is not the same manner of storage that new bulbs you purchase would be packaged. Ohio EPA recommends that AB manage these usable bulbs as an item that has value or begin managing them as universal waste. Enclosed are copies of the fact sheets related to the management of universal waste lamps. Please review this information and contact me if you have any questions. AB's compliance with the universal waste regulations may be assessed during a future unannounced compliance inspection.

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

Sincerely,



Melissa L. Boyers  
Division of Hazardous Waste Management

/cs

Enclosure

pc: Cindy Lohrbach, DHWM, NWDO  
Colleen Weaver, Supervisor, DHWM, NWDO  
Mr. Kenneth Wenninger, Law Offices of Kenneth Wenninger, LLC  
~~•DHWM;NWDO File: Lucas County General File~~

ec: Melissa Boyers, DHWM, NWDO

<p><b>NOTICE:</b> 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.</p>
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