



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: Cretecote, LLC
Norwood Industries
Lucas County
Hazardous Waste
Notice of Violation

October 14, 2009

CERTIFIED MAIL
7009 0820 0000 0591 9778

Mr. Charles Osswald
6125 Meteor Avenue
Toledo, Ohio 43623

Dear Mr. Osswald:

On December 19, 2007, I first investigated a complaint regarding improper waste management at your two facilities: Cretecote, LLC at 4301 Creekside and Norwood Industries at 1678 Norwood in Toledo, Ohio. You accompanied me during the investigation of both properties. Investigations were also conducted on May 8, 2008 at both facilities and on October 21, 2008 at Norwood.

At **Norwood Industries** I observed and photographed a large number of containers of material that you claimed were useful materials you intended to sell to customers. However, this material was stored in containers that were leaking, there was waste on the first floor and basement floor, the containers lacked labels identifying their contents, the building had no heat, the building had no fire suppression system, there was insufficient aisle space to reach the containers and move the containers, most of the containers were inaccessible and the building was stacked high with rubbish and various combustible materials. Norwood Industries is located in a residential area. In spite of repeated requests for you to submit a customer list or some other such documentation, you were unable to demonstrate that you had any customers for the chemicals. The US EPA sampled and analyzed the waste at this site and found a very large amount of hazardous waste. The waste had at least the characteristics of ignitability (D001) and corrosivity (D002). Although Ohio EPA and US EPA provided you the opportunity to properly dispose of the waste or to find customers for the material since December 19, 2007, you were unable to accomplish this. The US EPA has since conducted a time critical removal of the waste at this site. Their work began on October 16, 2008 and ended on June 15, 2009. The following wastes were among those removed by US EPA: 23,700 gallons and 26,300 pounds of waste flammable liquids (D001); 5,920 pounds of corrosive liquids (D002); 3,600 pounds of liquid hazardous waste; 60 pounds of ammonia solutions; 55 pounds of flammable aerosols (D001); 20 pounds of elemental mercury (D009); 80 pounds of solid toxic waste (lead/mercury debris) (D008 & D009); 80 pounds of hydrofluoric acid (D002); and 20 pounds of ethylene oxide. (These waste numbers may not represent all the applicable waste numbers.) US EPA later estimated that you had accumulated over 2,000 drums and several thousand smaller containers at this location.



At Cretecote, LLC I observed and photographed a large number of containers of material that you also claimed were useful materials you intended to sell to customers. This material was being stored in containers which were open, many of the containers lacked labels identifying their contents, and the building had no heat or fire suppression system. Cretecote, LLC is located near a residential area and in an area where people work. In spite of repeated requests for you to submit a customer list or some other such documentation (such as the recycling potential and how there was a legitimate expectation for the chemicals to be recycled); you were unable to demonstrate that you had any customers for the chemicals or any other documentation demonstrating the potential to recycle the chemicals. On December 19, 2007, during an inspection at Cretecote, LLC, you indicated that you did not have any customers for the chemicals at either site. On March 13, 2008, you stated that you get customers through word of mouth, but you had not shipped out any chemical in a long time. On March 18, 2008 you informed me that you were planning to move chemicals out of the building, presumably to customers, but this was not done. On May 8, 2008, in the presence of and under the advice of your lawyer, Mr. Walter Skotynsky, you stated that you would find customers for the chemicals and provide me with progress reports, but this was not done. The US EPA contractor sampled and analyzed a portion of the waste at this site on June 5, 2008, and found a very large amount of hazardous waste. The waste had at least the characteristics of ignitability (D001), which makes it a dangerous fire risk, and corrosivity (D002). Although you have had the opportunity to find customers for the waste at Cretecote, LLC since December 19, 2007, you were unable to accomplish this.

Ohio Administrative Code (OAC) rule 3745-51-02(F) states "Respondents in actions to enforce regulations adopted under Chapter 3734. of the Revised Code who raise a claim that certain material is not a waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so." You were not able to document your claim that there were customers for your chemicals. Furthermore, Ohio EPA has determined that the chemicals at Norwood Industries and Cretecote, LLC have been discarded by virtue of being abandoned, as defined in OAC rule 3745-51-02(A)&(B). Therefore, the chemicals at these facilities are wastes and at least the portion of the wastes were sampled and determined to be hazardous waste. Other materials that were not sampled and analyzed are likely also hazardous waste.

As a result of this investigation and Ohio EPA's determination that the material in storage is waste, I have found the following violations of Ohio's hazardous waste laws. You must do the following and send me the required information **within 30 days** of your receipt of this letter:

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

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.

Norwood Industries and Cretecote, LLC have established unpermitted hazardous waste storage facilities by: storing at least ignitable (D001), corrosive (D002) and toxic (D008 & D009) hazardous waste. The unlawful storage of hazardous waste has occurred for as much as 20 years. Norwood Industries and Cretecote, LLC must immediately cease the storage of hazardous waste. You must make immediate arrangement for the lawful, off-site disposal of all hazardous waste. You must submit documentation verifying the lawful, off-site disposal of all hazardous waste at your facility. Norwood Industries and Cretecote, LLC must provide documentation that describes the procedures that will be taken, immediately, to ensure that unpermitted storage does not happen again.

Since Norwood Industries and Cretecote, LLC have violated Ohio Revised Code (ORC) Section 3734.02(E) & (F) by becoming unpermitted storage facilities (TSD), they are subject to **OAC Rules 3745-55-10 through 3745-55-48 and 3745-55-97.** In accordance with OAC rules 3745-55-10 through 3745-55-20, you must conduct closure (i.e., clean-up) activities for all areas where hazardous waste has been unlawfully stored and/or disposed of. Closure activities must entail the following: removing and managing all waste and residues, removing or decontaminating contaminated equipment and structures, remediating contaminated soils and groundwater if necessary, and managing all wastes generated from these activities in accordance with the hazardous waste laws. You must submit a closure plan which ensures that the closure performance standards set forth in OAC rule 3745-55-11 are met. The closure performance standards require you to remove and remediate contamination in these areas to prevent it from posing a risk to human health and the environment. The closure plan should be prepared in accordance with Ohio EPA's Closure Plan Review Guidance for RCRA Facilities. To address this violation, you must submit a closure plan to Ohio EPA for review and approval.

Norwood Industries and Cretecote, LLC are also subject to all applicable general facility standards found in **OAC Chapters 3745-54 and 55** until such time as Norwood Industries and Cretecote, LLC have demonstrated that they have ceased operations as unpermitted storage facilities. Additionally, at any time, Ohio EPA may assert its right to have Norwood Industries and Cretecote, LLC begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

2. General Waste Analysis and Hazardous Waste Determination
OAC rules 3745-54-13/3745-52-11

Before an owner or operator treats, stores, or disposes of any hazardous wastes, or nonhazardous wastes if applicable under paragraph (D) of rule 3745-55-13 of the Administrative Code, he must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, this analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of Chapters 3745-54 to 3745-57, 3745-205, and 3745-270 of the Administrative Code.

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Also, 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.

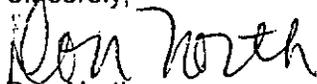
At the Norwood Industries and Cretecote, LLC facilities, I observed hundreds of containers of unevaluated wastes, as well as waste on the floors. You were unable to provide adequate evaluation information for these wastes. As a facility subject to the standards in OAC chapters 3745-54 and 3745-55, you are required to, at a minimum, obtain information which must be known to treat, store and/or dispose of the waste in accordance with the requirements of Chapters 3745-54 to 3745-57, 3745-205, and 3745-270 of the Administrative Code.

To address this violation, submit a waste analysis/work plan ("Plan") for review and approval describing how the contents of all containers and waste on the floor will be sampled, evaluated and managed. You are requested to notify Ohio EPA at least five days prior to implementing the Plan. Please refer to the following guidance document for help with writing your waste sampling and analysis plan: RCRA Waste Sampling Draft Technical Guidance. It can be found at: <http://www.epa.gov/epaoswer/hazwaste/test/pdfs/rwsdtg.pdf>. Additionally, after implementing the Plan, you must submit to Ohio EPA a copy of the waste evaluation information (i.e., analytical results) for the contents of the containers and waste on the floor, as well as documentation (i.e., shipping manifests) regarding the proper management of the waste.

These are serious violations for which Ohio EPA may pursue further enforcement action.

If you have any questions about this letter, please feel free to call me at (419) 373-3074. You can find copies of the rules and other information about used oil, universal waste and hazardous waste management on the division's web page at <http://www.epa.state.oh.us/dhwm>. Ohio EPA also has helpful information about pollution prevention at the following web address: <http://www.epa.state.oh.us/ocapp/ocapp.html>.

Sincerely,



Don North

District Representative
Division of Hazardous Waste Management
/csl

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
Harry Sarvis, DHWM, CO
Mitch Mathews, DHWM, CO
Jon Gulch, US EPA
Matt Epperson, TDES
NWDO, DHWM, Lucas County, Cretecote File
ec: Don North, DHWM, NWDO

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.

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<p>1. Article Addressed to:</p> <p>MR CHARLES OSSWALD 6125 METEOR AVE TOLEDO OH 43623</p> <p>DHWM/Don N./csl</p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>
<p>2. Article Number (Transfer from service label)</p>	<p>7009 0820 0000 0591 9778</p>