



State of Ohio Environmental Protection Agency

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January 25, 2007

**JEFFERSON COUNTY
WPS-YORKVILLE
DHWM/SEDO
OHD082964313**

Mr. Bud Smith
Wheeling Pittsburgh Steel Corporation
1134 Market Street
Wheeling, WV 26003

Dear Sir:

On April 19, 2006, Ohio EPA and USEPA performed a compliance evaluation inspection of Wheeling Pittsburgh Steel Corporation's (WPSC) Yorkville Plant. This letter addresses compliance with Ohio's hazardous waste laws and regulations as found in the Ohio Revised Code and the Ohio Administrative Code (ORC and OAC, respectively).

A Notice of Violation (NOV) was issued on June 23, 2006, for the remaining violations. I received your response on September 15, 2006. Based on the documentation submitted with that letter, WPSC has returned to compliance with the following regulations:

- 4845 I. OAC Rule 3745-52-11, Hazardous Waste Determination;
- 66 II. OAC rule 3745-65-16(D) Personnel training;
- 67 III. OAC rule 3745-52-34(C)(1) Accumulation time for hazardous waste.

On January 19, 2007, I received your fax of container inspection logs for the excavated soils contaminated with K062 waste. Based on this documentation, WPSC has returned to compliance with the following regulation:

- IV. OAC rule 3745-66-74, Inspections. 62

Based on the April 2006 inspection, WPSC is in violation of the following regulations (in addition to the previously-cited violations listed below in this letter):

- 3 (1) **ORC Rule 3734.02(E) & (F), Prohibitions:** This law states, in part, that no person shall store, treat or dispose of hazardous waste without a hazardous waste facility installation and operation permit issued by the Hazardous Waste Facility Board. ORC 3734.02(F) states that no person shall treat, store or dispose of hazardous waste except at the types of facilities specified within this rule.

The ferrous chloride solution/spent pickle liquor (FCS/SPL) tank system was found to be leaking from piping below the 20,000-gallon storage. This release has entered soils (there is no secondary containment around this portion of the tank system) and affected an area approximately 12 feet by 40 feet. This leak was observed by Ohio EPA during the 6/22/05 inspection. Although this leak appeared to be chronic, a bucket had been placed on the ground in an attempt to collect some of the leaked acid. WPSC had not recorded it in the tank system inspections nor did WPSC have any record of repairs to this portion of the system. Thus, WPSC failed to implement the procedures required under Order 9.f.i. of the Consent Order, an unknown (but significant) amount of SPL has been released to soils in this area. WPSC responded to this issue in their September, 2006 response by including three photographs showing some cleanup activities including a pH test. However, this effort does not meet the requirements of the 2002 Consent Order (the Order) between Ohio EPA and WPSC regarding the management of the spent acid. Specifically, Order 9.f.i, which requires WPSC to "...immediately take measures to stop the Spill, implement appropriate Spill response procedures, and recover the Spilled Material and promptly return it to the Recyclable Solution storage tank. Where it is not feasible to recover the Spilled Material...(WPSC) shall manage the Spilled Material as a hazardous waste (K062) in accordance with 3745-52." WPSC has failed to address this spill/release as required in the Order and the released material is therefore a listed hazardous waste (K062). These releases to soil were not addressed in a timely manner (Order 9.g.i specifies that impacted soils or debris will be removed within seven days after discovery, approximately ten months passed since this leak/release was first observed by Ohio EPA) and constitute disposal of hazardous waste. This violation will be abated, in part, once WPSC has implemented and approved closure plan for this area.

- (2) ⁶⁴ **OAC Rule 3745-55-12(A), Closure Plan:** The owner or operator of a hazardous waste management facility shall have a written closure plan.

WPSC does not have a closure plan for the SPL release/disposal below the 20,000 gallon tank. In the September response, WPSC stated that Weavertown Environmental addressed this release using the criteria defined in the Order. However, WPSC failed to address this Spill and release as required by the Order (see violation #1, above) and allowed this condition to occur for ten months, therefore, the area affected by the release must be addressed as a hazardous waste disposal unit. To abate this violation, WPSC must provide a plan that meets the requirements of OAC rule 3745-55-11 and this rule. To ensure that the plan complies with these rules, WPSC should use the Division of Hazardous Waste Management's Closure Plan Review Guidance which can be found on Ohio EPA's website at: www.epa.state.oh.us.

- (3) ⁶³ **OAC Rule 3745-279-22(D), Used oil storage requirements for generators:** Upon detection of a release of used oil...a generator shall perform the following cleanup steps: (1) stop the release; (2) contain the released used oil; (3) clean up and properly manage the released used oil and other materials; and (4) if necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service.

Used oil was observed released to soil around the Diffused Air Flocculation (DAF) pad. The September 2006 response did not provide the requested documentation. WPSC will demonstrate compliance by providing photographs of this area once it has been cleaned up. WPSC should implement procedures that specify the correct management of used oil releases pursuant to this regulation.

- (4) **OAC rule 273-13(D)(1), Waste management-standards for small quantity handlers of universal waste:** A small quantity handler of universal waste must contain any lamp in containers that are structurally sound, adequate to prevent breakage...such containers must remain closed.

The lamps we observed were in a box that was not closed. The September 2006 response did not provide the documentation requested in the previous NOV. To demonstrate compliance, WPSC must provide photographs demonstrating that boxes of universal waste lamps are kept closed. WPSC should implement procedures that specify the correct management of this waste pursuant to this regulation.

- (5) **OAC rule 3745-273-15(C) Accumulation time limits:** A small quantity handler of universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

WPSC has not demonstrated that it does not accumulate universal waste for more than a year (unless storing for a longer period is solely to facilitate recycling). To demonstrate compliance, WPSC must provide documentation demonstrating that this waste is not stored over one year (or that this is done to facilitate recycling).

Based on the observations made during the April 2006 inspection and the review of records that WPSC provided on May 24, 2006, WPSC has failed to comply with the following requirements of the Order.

- (6) **Spill response and reporting (Order V9f.i.-iii.)** A) WPSC failed to immediately take measures to stop the spills (from under the 20,000-gallon tank, the day tank probe port, and from the piping near the transfer pump), failed to manage the collected acid as K062, and failed to complete an Environmental Incident Report (EIR) for each spill. The September 2006 response did not provide the documentation requested in the previous NOV. To demonstrate compliance, provide documentation demonstrating that such actions will be taken immediately upon discovery.

Based on the June 2005 Ohio EPA inspection, WPSC remains in violation of the following regulations:

- (7) **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 release 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) During the April, 2006 inspection, USEPA and Ohio EPA observed that the FCS/SPL tank system was managed so poorly that on-going leaks were not repaired and the released waste was not being adequately contained. Specifically, WPSC's inspection logs show that cracks in the loading pad asphalt around the sump had not been repaired from 8/29/04 (when they were first recorded) until sometime prior to 10/5/06 (receipt of the certification for new sump and pump). Additionally, the loading pad sump pump had not worked as designed (in automatic mode) since 8/1/04. Our observations during the April, 2006 inspection revealed further deterioration of the pad including an inch-wide gap around one sump (which was recorded by WPSC personnel from at least April 2005). WPSC failed to comply with the Order 9.d.ii. (WPSC must repair the tank system as soon as practicable) and failed to address spills and releases to soils through these gaps and cracks (Order 9.g.i.), therefore, the spilled material is a hazardous waste.

WPSC's March, 2006 response states that soil samples will be collected from beneath the sump, if feasible, between the removal of the old sump and the installation of the new sump, to date, no results have been received. The September 2006 response did not provide the documentation requested in the previous NOV. To demonstrate compliance with this rule, WPSC must address this area in the closure plan cited in #2 above.

- 75 (8) **OAC Rule 3745-65-16(C), Personnel training:** Facility personnel must take part in an annual review of the initial training required in paragraph (A) of this rule.

From the training logs, it appears that an employee (Karen Kidney), who is required to have the annual training, did not receive it in 2004. The March 2006 response states that she did not get the training in 2004 training cycle and that WPSC will include her in the 2005 cycle. A review of the 2005 training records which WPSC provided indicates that only 18 out of 61 employees that WPSC identified as needing the training actually received the training. The September 2006 response did not provide the documentation requested in the previous NOV. To demonstrate compliance with this rule, provide documentation indicating that WPSC has provided training to all personnel who are required to have this training.

The previous hazardous waste inspections of this facility by Ohio EPA were performed on April 25, 2001, May 15, 2002, May 28, 2003, and June 23 and 28, 2004.

The Notice of Violation (NOV) for the May 2002, inspection was issued on June 17, 2002, requesting a response within 30 days. No response to that NOV was received and on October 9, 2002, another NOV was issued. On November 25, 2002, I received WPSC's response.

Based on the observations during the May 2003 inspection, a NOV letter was issued on June 20, 2003. No response to that NOV was received and another NOV was sent to WPSC on June 20, 2003. On March 17, 2004, WPSC's response was received. On July 30, 2004, Ohio EPA issued another NOV and on May 27, 2005, Ohio EPA received WPSC's response to that NOV.

90 (9) **Release Response and Reporting (Order V.9.g.):** A) The Ferrous Chloride Solution Release and Reporting for YK Plant (#E1055-0501-R002), which WPSC provided in its April 2004 response, fails to include the following required information: the list of WPSC personnel's names and telephone numbers who are to be notified of a release of FCS. The May 2005, and March 2006 responses state that this procedure refers to a separate form that contains the names and numbers of emergency contacts; however, the Order states that this information will be **included in** the spill response procedures. To demonstrate compliance, WPSC must provide a revised copy of these procedures to this office and provide documentation indicating that these procedures are readily available to all personnel have the potential to respond to releases.

B) From at least June 22, 2005 until April 19, 2006, WPSC failed to remove contaminated soil from the release below the 20,000 gallon tank, and place it into containers and manage the containers as K062 (per the order this should have taken place within seven days of discovery). WPSC also failed to notify Ohio EPA within 24 of the discovery of the release and failed to submit a written report with the information required in this order for releases greater than 30 gallons. The September 2006 response did not provide the documentation requested in the previous NOV. To demonstrate compliance, provide a written release report with all the information required by this order for the release beneath the 20,000 gallon tank.

92 (10) **Inspections (Order V.9.d) and Response to problems found (Order V9.d.ii.):** This order requires WPSC to develop and implement written procedures for inspections that will look for damage, deterioration, accumulation of excessive liquids, Spills, De Minimus Losses, Releases, and signs of Spills or Releases. This order also requires that the tank system will be repaired as soon as practicable.

A) During the May 28, 2003, inspection, we found that the daily inspections of the FCS system failed to detect the deterioration (the six-inch long hole in the concrete pad between the day tank and the FCS pumps) of the secondary containment pad for the FCS pumps and associated piping. Under the Order, secondary containment for the FCS system is subject to these inspections (the Orders do not limit the definition of secondary containment solely to the tanks, as WPSC has repeatedly stated); B) The pipe failure and release at the FCS pump which occurred on May 22, 2003, and the subsequent repairs, were not documented on the daily inspection log.

WPSC's 2005 and 2006 responses state that the tank system only includes the secondary containment for tanks; as a result, WPSC incorrectly asserts that the area around the pumps is not subject to the inspection requirements in the Order. **The Order defines Tank System as "...including secondary containment...from and including the initial storage tank to and including the vehicle loading station, pad and sump"** This pad and curbing are part of the FCS system and is covered under the inspection requirements and must be added to the inspection checklist. **To demonstrate compliance, provide copies of the revised checklist.**

B) From June 22, 2005 until the April 19, 2006 inspection, WPSC's daily inspections did not record the release of FCS to soils under the 20,000 gallon tank. WPSC personnel knew the system was leaking since a bucket had been placed under the leak. WPSC also failed to record the leaks/spills from the piping near the transfer pump and from the detector port for the day tank. The September 2006 response did not provide the documentation requested in the previous NOV. WPSC must demonstrate that the written procedures and inspection logs stress the identification and documentation of any leak, spill, release and damage or deterioration of the system and that the tank system will be repaired as soon as practicable once a problem is discovered. To demonstrate compliance with the Order, WPSC must provide a copy of the revised inspection procedures and two-month's worth of completed inspection logs.

57 (11) **Major Repairs** (Order V.9.c.): A) During the May 28, 2003, inspection, a six-inch long hole was discovered in the pipe trench/secondary containment pad between the day tank and the FCS pumps. This hole was repaired sometime prior to June 11, 2003. Under the orders, this would be considered a major repair and subject to re-certification. WPSC's 2004, 2005 and 2006 responses state that this pad is not part of the FCS system and, therefore, WPSC is not required to certify these repairs. As stated above, this position is incorrect and the repair to the containment pad around the day tank must be certified.

B) WPSC's May 2004, inspection logs show that the leaking and/or non-functioning FCS pumps were replaced; C) The inspection logs also show that a new pipe was installed at the storage tank on 1/8/05; D) the FCS pipe above the railroad door broke and was replaced on 3/15/05. WPSC has failed to provide certifications for the repairs for items B, C and D. These repairs are considered major repairs per these Orders and should have been re-certified. The April 2006 inspection uncovered at least three more portions of the system requiring major repairs E) the pipe by the transfer pump; F) the pipe below the 20,000 gallon tank and G) day tank monitor probe. To demonstrate compliance, WPSC shall have a registered P.E. inspect and certify all major repairs to the tank system, including repairs to any secondary containment for the FCS tank system, once all such repairs have been made. The September 2006 response did not provide the documentation requested in the previous NOV.

WPSC remains in violation of the following laws and regulations from inspections or SPL releases prior to 1999 which are not addressed by the 2002 Order:

32 (12) **ORC Rule 3734.02(E)&(F), Prohibitions:** This law states, in part, that no person shall store, treat or dispose of hazardous waste without a hazardous waste facility installation and operation permit issued by the Hazardous Waste Facility Board. ORC 3734.02(F) states that no person shall treat, store or dispose of hazardous waste except at the types of facilities specified within this rule.

Based on the condition of the former Spent Pickle Liquor (SPL) tank system pipe trench and sample results from the trench and soils directly below the trench, releases of SPL (K062) from this tank system have occurred. In August 2003, WPSC excavated contaminated soil from beneath soil sample boring (SS-1B) which exceeded Ohio EPA's generic remediation standards. However, based on the characteristics of the waste

involved, potential for release, and the proximity to groundwater, Ohio EPA has determined groundwater monitoring is needed, and WPSC agreed and installed piezometers around the former unit to determine groundwater flow direction prior to the installation of monitoring wells. To date, no monitoring wells have been installed.

This violation will be abated, in part, when closure of the former SPL tank system trench is completed in accordance with an amended closure plan (approved by Ohio EPA) which addresses the applicable groundwater monitoring requirements and has attained the performance standards cited in OAC Rule 3745-66-11.

- 4V (13) **OAC rule 3745-66-12(C)/OAC Rule 3745-55-12(C), Closure plan; amendment of plan:** Amendment of plan... An owner or operator with an approved closure plan must submit a written request to the director to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the director. The owner or operator must amend the closure plan whenever: (b) there is a change in the expected year of closure, if applicable; or (c) in conducting partial or final closure activities, unexpected events require a modification of the closure plan.

The current, approved closure plan states that closure activities were completed in 1999 and does not include address unexpected events including subsequent groundwater monitoring activities nor the soil excavation and sampling activities performed by WPSC in August 2003. To demonstrate compliance, the approved closure plan must be amended to include all additional activities that have been performed pursuant to the closure of this unit, including a description of the ground water monitoring activities that will be implemented to demonstrate compliance with OAC rules 3745-54-90 to 3745-54-101 and a schedule for the implementation of those activities. The plan should also address Ohio EPA's comments on WPSC's Supplemental Soil Sampling Plan (SSSP) and the subsequent SSSP Report. To demonstrate compliance with this rule, the amended plan must be provided to the director and a copy provided to this office for review.

- 60 (14) **OAC Rule 3745-66-13(B)/OAC Rule 3745-55-13(B), Time allowed for closure:** The owner or operator shall complete partial and final closure activities in accordance with the approved closure plan and within one hundred eighty days after...approval of the closure plan.

WPSC's closure plan was approved with modifications on April 24, 2000. WPSC appealed the modifications to that plan. On November 14, 2002, WPSC withdrew their appeal of the approved plan; WPSC will return to compliance with this rule once Ohio EPA receives the amended closure plan containing the required information.

General Comment

Since WPSC violated ORC §3734.02(E) and (F), this facility is subject to all the applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have this facility begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

If you have any questions, please contact me at (740) 380-5278.

Sincerely,



Richard Stewart
District Representative
Division of Hazardous Waste Management

RS/mlm

cc: Pat Smith, WPSC - Steubenville South Plant
Brian Ball, AGO
Jim Kavalec, DHWM, CO
Robert D. Smith, USEPA Region V

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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