



State of Ohio Environmental Protection Agency

Northeast District Office

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

October 24, 2008

**RE: CITY OF WARREN WWTP
NOTICE OF VIOLATION**

W. Douglas Franklin
Director of Service-Safety
2323 Main Ave. S.W.
Warren, OH 44481-9603

Dear Mr. Franklin:

On October 1, 2008, I, representing the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM), conducted an inspection of solid waste that has been disposed at the City of Warren Water Pollution Control Department (WWPCD). Accompanying me during the inspection were Kevin Francis of the Trumbull County Health Department, and Jim Wilder and Gary Schaeffer of the WWPCD.

The inspection was conducted in response to observations made by Ohio EPA's Division of Surface Water on July 29, 2008, and information provided in correspondence from Thomas Angelo, Director of the Warren Water Pollution Control Center. During the inspection, I observed that the City of Warren has been collecting, shredding and stockpiling leaves to the east of the water pollution control center located at 2323 Main Ave. The City also stockpiled incinerator ash and "Nature's Blend" at that location. Some of the leaves were stockpiled within an area for which the City began constructing a leachate collection system. Another leaf stockpile and the incinerator ash stockpile were located outside the leachate collection area. None of the areas upon which stockpiles are located was graded to provide drainage of leachate toward the collection system.

The leaves have been collected from Warren and Hubbard over the past three or four years. Once collected the leaves were shredded, stockpiled and subsequently distributed/sold as mulch. During the inspection, leaves were stockpiled in an area that did not allow The incinerator ash was generated during the 1980s and 1990s when the city operated an incinerator at this location. The ash is currently being tested by the City. Pending receipt of test results and assuming the ash is toxic but not hazardous, the manner in which the leaves and incinerator ash have been handled at by the City is in violation of the following:

Ohio Revised Code (ORC) Section 3734.03 which states in part, *"No person shall dispose of solid wastes by open burning or open dumping," and*

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Ohio Administrative Code (OAC) 3745-27-03(C) which states *"No person shall conduct, permit, or allow open dumping. In the event that open dumping is occurring or has occurred at a property, the person(s) responsible for the open dumping, the owner of the property, or the person(s) who allow or allowed open dumping to occur, shall promptly remove and dispose or otherwise manage the solid waste in accordance with Chapter 3734. of the Revised Code, and shall submit verification that the solid waste has been properly managed."*

OAC 3745-27-41(A) which states *"No person shall establish or operate a class II, III, or IV composting facility without first submitting the notification required by paragraph (D) or (E) of this rule. Thirty days after the receipt of a complete notification by Ohio EPA, the composting facility shall be considered to be a "registered composting facility" and the owner or operator may do either of the following...For a class III or IV composting facility, commence construction and operation of the facility."*

OAC 3745-27-41(E)(1) which states *"Not less than thirty days prior to the date on which the owner or operator will accept authorized feedstocks, bulking agents, or additives, the owner or operator of a class IV composting facility shall submit to the director and to the approved health district having jurisdiction a complete notification on forms prescribed by the director to register the composting facility..."*

OAC 3745-27-41(G) which states *"Concurrent to submittal of the notification required by paragraph (D) or (E) of this rule, letters of intent to establish or substantially change a composting facility which include a description of property and facility boundaries, shall be sent, with return receipt requested, to the following:*

- (1) The governments of the general purpose political subdivisions where the facility is situated, i.e., county commissioners, legislative authority of a municipal corporation, or the board of township trustees.*
- (2) The single or joint county solid waste management district or districts or regional solid waste management authority or authorities where the facility is located.*
- (3) The owner or lessee of any easement or right of way bordering or within the proposed facility boundaries which may be affected by the proposed solid waste facility.*
- (4) The local zoning authority having jurisdiction, if any.*
- (5) The park system administrator, if any part of the facility is located within or shares the park boundary.*
- (6) The conservancy district, if any part of the facility is located within or shares the conservancy district boundary.*
- (7) The fire department having responsibility for providing fire control services where the facility is located."*

OAC Rule 3745-27-45(A)(2) which states *"The owner or operator of a class II, III, or IV composting facility shall meet the registration requirements prior to initiating operations at the facility and shall maintain status as a "registered composting facility," in accordance with rule 3745-27-41 of the Administrative Code, in order to continue operations at the facility."*

OAC Rule 3745-27-45(A)(6) which states *"The owner or operator shall prepare, maintain and implement a contingency plan to address discovery of prohibited material, fire, explosion, spills, and equipment failure. The owner or operator shall have a copy of the contingency plan available for inspection by Ohio EPA or the approved health department during normal operating hours."*

OAC Rule 3745-27-45(C)(1) which states *"The owner or operator of a composting facility shall conduct operations at the composting facility in such a manner that:*

- (a) Noise, dust, and odors are controlled so as not to cause a nuisance or a health hazard.*
- (b) The attraction, breeding, and emergence of insects, birds, rodents, and other vectors are controlled so as not to cause a nuisance or a health hazard. The owner or operator shall initiate effective supplemental vector control measures as deemed necessary by the health commissioner or the director.*
- (c) Fires are prevented so as not to cause a nuisance or a health hazard.*
- (d) All reasonable measures are employed to collect, properly contain, and dispose of scattered litter, including the use of portable wind screens and frequent inspection of the facility.*
- (e) Water pollution is not created and Chapter 3704. of the Revised Code or any rule promulgated thereunder is not violated."*

OAC Rule 3745-27-45(C)(2) which states *"All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*

- (a) All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.*
- (b) All incidents concerning the prohibited material shall be noted in the daily log.*
- (c) With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.*
- (d) The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations."*

OAC Rule 3745-27-45(G) which states *"The owner or operator of a composting facility shall control surface water runoff and run-on, prevent ponding and erosion, and minimize the impact to surface and ground waters. For the purpose of this rule runoff includes precipitation that has fallen onto the composting facility and has not come in contact with any compost products, or solid wastes including feedstocks, bulking agents, or additives..."*

OAC Rule 3745-27-45(G)(1) which requires the owner or operator to *"Manage surface water in compliance with the requirements of Chapter 6111. of the Revised Code."*

OAC Rule 3745-27-45(G)(2) which requires the owner or operator to *"Divert surface water from the materials placement areas. The land surface of the waste handling, composting, compost curing, and cured compost areas of the facility shall be greater than or equal to one per cent in slope and less than or equal to six per cent in slope so as to direct surface water to collection points or otherwise control the surface water drainage to minimize erosion."*

OAC Rule 3745-27-45(H)(3) which states *"The owner or operator of a class I, II, III or IV composting facility shall do the following:*

- (a) Manage leachate in accordance with Chapter 6111. of the Revised Code.*
- (b) Take action to minimize the production of leachate and control, or eliminate, ponding of leachate and the conditions that contribute to the discharge of leachate from the facility..."*

OAC Rule 3745-27-45(K) which states *"The owner or operator shall inspect the facility, maintain a daily log, and if applicable, establish a tracking system..."*

OAC Rule 3745-27-45(K)(1) which states *"The owner or operator shall inspect the facility a minimum of:*

- (a) Once per day when feedstocks, bulking agents, or additives are received at the facility.*
- (b) Once every week during the time period when feedstocks, bulking agents, or additives are not received and when feedstocks, bulking agents, or additives or curing or cured compost remain at the facility."*

OAC Rule 3745-27-45(K)(2) which states *"At a minimum, the owner or operator of a composting facility shall inspect the facility for the purposes identified in this paragraph. During inspection, the owner or operator shall do the following:*

- (a) Obtain information for the daily log.*

- (b) Examine the facility for the presence of prohibited material, including litter, and then properly manage the prohibited material in accordance with paragraph (A)(4) of this rule.*
- (c) Evaluate leachate formation and leachate collection systems.*
- (d) Evaluate ponding of water at the facility.*
- (f) For a class I, II, III, or IV composting facility, visually inspect or otherwise monitor any leachate management system to detect any leakage, breakage, clogging or blockage in the system."*

OAC Rule 3745-27-45(K)(3) which states "The owner or operator of a composting facility shall record the facility operations on a daily log. The daily log information shall:

- (a) Be kept on forms prescribed by the director or alternative forms approved by the director. The owner or operator must receive prior written approval from the director to use an alternative form. Alternative forms may be approved provided that all of the information requested on the prescribed form is present.*
- (b) Be available for inspection by the approved health department or Ohio EPA during normal operating hours.*
- (c) Be submitted, upon request, to the approved health department or Ohio EPA. The approved health department or Ohio EPA may request summaries from the daily logs in lieu of the daily log copies.*
- (d) Include information for all entries listed on the log form when the facility is operating.*
- (e) Include the date when samples are obtained at the composting facility for testing in accordance with paragraph (H)(5)(b) of this rule and in accordance with rule 3745-27-46 of the Administrative Code.*
- (f) Include documentation of all incidents concerning detection of prohibited material in accordance with paragraph (A)(4) of this rule.*

OAC Rule 3745-27-45(P) which states "The owner or operator of a composting facility shall submit an annual report to the appropriate Ohio EPA district office and approved health department no later than the first day of April of each year. The annual report shall include, at a minimum, all of the required information on forms prescribed by the director or alternative forms approved by the director. The owner or operator must receive prior written approval from the director to use an alternative form. Alternative forms may be approved provided that all the required information is present. The following information summarizing the previous year's operations and the condition of the facility shall be included on the annual report:

- (1) Identification as to the calendar period to which the submittal applies.*
- (2) A summary of the facility's operations by month and annual totals including the following:*

(a) Quantity, in tons or cubic yards, of the following:

- (i) Wastes received.*
- (ii) Materials removed from the facility including, but not limited to, salvaged materials and materials that are not utilized in the composting process.*
- (iii) Cured compost produced.*
- (iv) Cured compost and compost product removed from the facility.*

(b) Origin of the wastes received.

(c) The solid waste disposal facilities to which solid wastes, including cured compost and materials that are not utilized in the composting process, were taken for disposal.

(3) Except for facilities which collected all leachate exclusively for re-circulation into the composting process, a monthly summary of the amount of leachate collected for treatment or disposal, not including re-circulation, and where the leachate was treated or disposed...

(6) A summary of any maintenance performed on the leachate control system or on any other monitoring and control system installed at the facility.

(8) The name, address and telephone number of the person to contact regarding final closure of the facility.

(9) A statement certifying compliance with paragraph (H)(2) of this rule.

(10) A notarized statement certifying that, to the best of the knowledge of the owner or operator, the information contained in the annual report is true and accurate..."

The City prepared a compost registration form and became a registered facility on October 16, 2008.

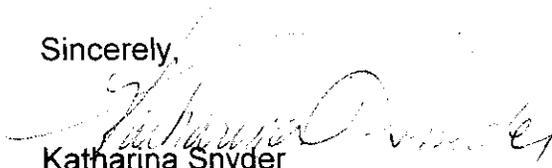
In order to comply with the rules above, leaves or other feedstock can only be placed in the area designated as a registered class IV compost facility. Existing leaf piles must be moved to a registered compost facility. Incinerator ash test results must be forwarded immediately to Ohio EPA and the ash must be removed for proper disposal. All leachate from the waste piles must be collected and disposed at a waste water treatment facility. All solid waste scattered about the stock pile area must be collected and disposed at a properly licensed/permitted solid waste disposal facility. Documentation of the proper handling and disposal of all wastes must be submitted to Ohio EPA within 90 days of November 24, 2008.

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Please be advised that the October 1, 2008 inspection was not a comprehensive inspection of the facility, and as such, this correspondence is not intended to imply or convey the owner or operator's compliance with the requirements of all other applicable rules and regulations, particularly those requirements of ORC Chapter 3714. Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the Entity from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water or Comprehensive Environmental Response, Compensation, and Liability Acts for remedying conditions resulting from any release of contaminants to the environment.

If you have any questions concerning this notice of violation, please contact me at (330) 963-1257.

Sincerely,



Katharina Snyder

Division of Solid and Infectious Waste Management

KS:cl

pc: Chris Moody, DSW NEDO
Kevin Francis, Trumbull County HD
File: Sowers[COUN/Trumbull/GEN/78]