



State of Ohio Environmental Protection Agency

Northwest District Office

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

**Re: Richland Moulded Brick Company
OHR 000 011 221
Richland County
DHWM, NWDO
Second Notice of Violation**

October 23, 2008

CERTIFIED MAIL

Mr. Dudley P. Frame, Junior
Richland Moulded Brick Company
P. O. Box 754
Anniston, Alabama 36202

Dear Mr. Frame:

On April 8, 2008, the Ohio Environmental Protection Agency (Ohio EPA) conducted a sampling event at the Richland Moulded Brick (RMB) site. This sampling event was conducted in order to determine if the abandoned containers of waste found during an inspection on October 5, 2006, were hazardous waste.

Following the October 5, 2006, inspection, Ohio EPA sent RMB a Notice of Violation (NOV) on November 15, 2006. This NOV described the Ohio Administrative Code (OAC) Rule 3745-52-11 violation that was cited due to the unevaluated drums found during the October 5, 2006, inspection. In response to the NOV, RMB submitted a waste analysis plan (WAP) that was received by Ohio EPA on January 10, 2007. Ohio EPA reviewed the WAP and sent RMB a notice of deficiency (NOD) for the WAP on March 29, 2007. Ohio EPA met with Mr. William Geier at the RMB site on May 7, 2007, to discuss the NOD. At this time, Ohio EPA explained why the WAP was deficient. **To date, RMB has not responded in writing to the March 29, 2007, NOD, nor has RMB abated the violation cited in the November 15, 2006, NOV. RMB must submit the required information within 30 days of receipt of this letter.**

During the April 8, 2008, sampling event at the RMB site, Ohio EPA opened a large portion of the abandoned containers, grouped them according to similar characteristics, and sampled a portion of these groups. Ohio EPA investigated the following at the site:

- twenty seven (27) 55-gallon drums of unknown substances;
- eight (8) medium sized drums (more were on site);
- thirty nine (39) 5-gallon buckets (more were on site);
- one (1) super sak filled with unknown contents; and
- one (1) plastic bag with unknown contents.

Ohio EPA did not open or investigate the laboratory chemical containers at the site nor did Ohio EPA take any soil samples from the stained areas.

Prior to sampling the drums at the RMB site, most of the containers on site were grouped together based on similar physical characteristics (such as color, phase, and pH). Out of the numerous groups of containers, Ohio EPA decided to sample thirteen (13) groups. In order to get a representative sample from each group, only one container per group was sampled. Hence, even though only 3 samples came back as hazardous waste, more than these three (3) containers contain hazardous waste. The results of these analyses were received by Ohio EPA on May 19, 2008. Highlights of the results are listed below. Container identification name/numbers are based on Ohio EPA's labeling of the containers while on site during the April 8, 2008, sampling event.

- Containers D03 and D23, are considered hazardous for ignitability (D001) and toxicity (benzene D018). This waste stream was approximately 45 gallons.
- Containers D04, D08, and D17 are considered hazardous for toxicity (benzene D018). This waste stream was approximately 173 gallons of waste.
- Container P42 was totally rusted out, therefore, Ohio EPA was unable to determine how full the container was. However, this was the only container in this group. At the most, this group contains 5 gallons of this waste. This container is considered hazardous for toxicity (cadmium D006, lead D008, and selenium D010).

A copy of the analytical results received from Microbac Laboratories, Inc. has been included for your information. Quality assurance and quality control (QA/QC) information may be requested from Ohio EPA but has not been enclosed at this time due to the volume of information. These results show three (3) of the thirteen (13) samples taken by Ohio EPA are hazardous waste. However, based on the grouping of the containers prior to sampling, six (6) containers hold hazardous waste.

RMB has the following violations of Ohio's Hazardous Waste Laws. RMB must do the following and send me the required information ***within 30 days of receipt of this letter:***

Violations:

The following violation was cited in the November 15, 2006, NOV, and remains outstanding:

1. **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..."

RMB has failed to determine if drums of waste on-site at RMB are a hazardous waste. At the time of the October 5, 2006, inspection, there were approximately thirty (30) 55-gallon drums, fifteen (15) medium sized drums, forty five (45) 5-gallon buckets, one (1) super sak and ten (10) laboratory chemical containers of unknown waste on RMB's property. However, RMB is responsible for evaluating ALL wastes at the facility regardless if they are listed in this or subsequent or previous letters.

In order to correct this violation, RMB must submit documentation demonstrating the wastes listed above have been properly evaluated pursuant to OAC 3745-52-11.

The waste should be sampled for Toxicity Characteristic Leaching Procedure (TCLP) Resource Conservation and Recovery Act (RCRA) metals, TCLP volatile organic compounds (VOCs), TCLP semi-volatile organic compounds (SVOCs), flash point, and pH. RMB must give Ohio EPA at least five (5) days notice prior to sampling.

Ohio EPA expects that the containers of hazardous waste listed in violation 2 will be considered as such by RMB and sampling of this waste does not need to be completed.

After review of the analytical data Ohio EPA received on May 19, 2008, I have determined that RMB has the following violation of Ohio's Hazardous Waste Laws:

2. **Ohio Revised Code (ORC) Section 3734.02(E)&(F), Unpermitted Hazardous Waste Treatment, Storage & Disposal:** "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 ..."

RMB unlawfully stored hazardous waste on site since at least October 5, 2006. Based on the analytical results received by Ohio EPA on May 19, 2008, it was determined that RMB has at least 6 containers of hazardous waste totalling approximately 223 gallons stored on site without a permit. Since RMB is not currently active/operating at this time, and was not a generator of hazardous waste during normal operations, it was determined that RMB has established a hazardous waste storage facility without first obtaining a hazardous waste installation and operation permit.

RMB must do the following:

- RMB must immediately begin complying with all applicable hazardous waste rules and properly managing the hazardous waste on site.
- RMB must immediately submit the name and contact information of a proper disposal facility for the hazardous waste and a description of how and when the waste will be transported to the facility. I have provided a fact sheet titled Selecting a Treatment/Storage/Disposal Facility (TSDF) to Handle Your Hazardous Waste, dated May 2007, and a list titled Ohio Commercial Facilities Accepting Hazardous Waste, dated June 2008, to assist you in finding a proper destination facility.
- After Ohio EPA's review of this information, RMB must immediately begin shipping the hazardous waste off site.
- RMB must submit manifests and land disposal restriction forms for the off site shipments of the hazardous waste to Ohio EPA ***within 30 days of receipt of this letter.***

Since RMB has violated ORC Section 3734.02(E) & (F) by becoming an unpermitted treatment, storage, and disposal facility (TSDF), it is subject to OAC Rules 3745-55-10 through 3745-55-48 and 3745-55-97.

Therefore, RMB may be required to submit a closure plan and establish financial assurance for closure. A closure plan describes the steps necessary to investigate the extent of contamination and to clean up all contamination found.

RMB is also subject to all applicable general facility standards, found in OAC Chapters 3745-54 and 55, until such time as RMB has demonstrated that it has ceased operations as a TSDF. Additionally, at any time, Ohio EPA may assert its right to have RMB begin facility-wide cleanup, pursuant to the Corrective Action process under Ohio law.

RMB should be aware that all containers storing hazardous waste must be properly labeled, dated, kept closed, in good condition, and inspected weekly while on site. Failure to do so may result in additional violations.

RMB can find copies of the rules and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>.

If RMB has any questions, please call me at 419-373-3065.

Sincerely,

Kara Reynolds

Kara Reynolds
Division of Hazardous Waste Management

/llr

pc: William Geier, Senior, Richland Moulded Brick, Mansfield, Ohio
Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM NWDO File: Artisan Moulded Brick 2005-

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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Richland Moulded Brick Company
P.O. Box 754
Anniston, Alabama
36202

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