



Environmental  
Protection Agency

John R. Kasich, Governor  
Mary Taylor, Lt. Governor  
Scott J. Nally, Director

Re: Heinz North America  
OHD005034301  
Sandusky County  
Complaint #2982  
Hazardous Waste  
**Partial Return to Compliance**

February 8, 2011

Ms. Cathy Shell  
Manager of Loss Prevention  
Heinz North America  
1200 North Fifth Street  
Fremont, Ohio 43420

Dear Ms. Shell:

On July 21, 2010, you accompanied me during Ohio EPA's complaint investigation (CI) of Heinz North America (HNA) located at 1200 North Fifth Street in Fremont, Ohio. I identified six violations of Ohio's hazardous waste rules and notified you of these violations in a Notice of Violation (NOV) letter dated August 23, 2010. This letter will summarize the violations and HNA's response dated September 27, 2010, which was received by Ohio EPA on September 28, 2010.

On July 21, 2010, I found the back of a fenced area along Bloom Road in Fremont. You explained that it was a truck lot and property owned by HNA. As I walked beside the fence, I observed approximately one hundred 55-gallon drums along the fence line. Therefore, the complaint was valid. Many of the drums were white plastic, some were blue plastic and some were steel. Most of the drums were upright and some were on their sides. The only way to know what these drums contained was to open them and evaluate each one. You explained that the site had not been used since 2000 and no one at HNA was sure about the condition of the drums or their contents. Ohio EPA did not inspect the HNA manufacturing facility.

Below is a summary of the violations cited in Ohio EPA's August 23, 2010, NOV and your compliance status with respect to each. In order to correct these violations, 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 & 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 ... except at or to any of the following: (1) A hazardous waste facility operating under a permit issued in accordance with this Chapter....

**HNA became an unpermitted hazardous waste storage facility by: unlawfully storing and abandoning corrosive hazardous waste (D002) in at least three 55-gallon drums for at least ten years, in an open lot across from the manufacturing facility in Fremont, Ohio. It now appears that additional drums of hazardous waste have been identified at the site. HNA must immediately cease this unpermitted storage of hazardous waste.**

HNA must immediately arrange for the lawful transport of its hazardous waste to a permitted hazardous waste treatment, storage or disposal facility. HNA must submit to me a legible copy of the manifest(s), signed by a representative of the permitted treatment, storage or disposal facility that documents the proper off-site shipment of all its hazardous waste. HNA must also provide documentation that describes the procedures that will be taken, immediately; to ensure that unpermitted storage does not happen again.

**In the September 27, 2010, response letter, HNA claims that the drums did not contain waste materials but rather original product that had not been fully emptied from the original containers. Ohio EPA has determined that the drums contain waste that has been abandoned since: the drums were outside and unsecured, most of the containers were unlabeled, many of the drums were open and missing bung caps, some of the drums were found on their sides, some of the drums were severely damaged and they were left in this condition for ten years. This was communicated by phone to you on November 22, 2010.**

**On August 2, 2010, I returned to HNA to observe as Clean Harbors sampled the waste in the containers. On August 10, 2010, HNA submitted the initial results of the sample analyses. HNA identified nine drums containing hazardous waste, since the waste had pH units of two or less and twelve and one half or more. You requested that Clean Harbors analyze these nine drums with a more accurate instrument to verify the pH units. On August 12, 2010, HNA submitted revised results from further waste analyses. As a result, only three 55-gallon drums of hazardous waste were identified consisting of about 100 gallons: Drum BT-40, pH 13.6; Drum BT-84, pH 13.8 and BT-96, pH 1.11. On August 13, 2010, you explained that the original pH analysis was done with pH strips and the revised analysis was accomplished with a hand held pH meter.**

**In the September 27, 2010, response letter, HNA states that it found 109 drums in the Bloom Road property and identified 71 drums of waste Zesty Smoke Flavorings, 22 drums of waste Quorum Yellow, 9 drums of waste Lubri-Klenz LF, 3 drums of waste caustic soda, 1 drum of waste sulfuric acid and 1 drum of waste OPTAL 10-7016, an adhesive. Furthermore, HNA states that it had identified another drum of hazardous waste, BT-85, containing caustic soda with a pH of 12.7. Therefore, at least four drums of hazardous waste have been identified at the Bloom Road property.**

In order to ensure that unpermitted storage does not happen again at the Fremont facility, attached to your September 27, 2010, response letter is a property inspection procedure and form. A monthly inspection is a good approach to ensuring that no wastes are placed or left on the two HNA properties in Fremont. However, it appears that the inspection form should state, "If any "Yes" answers, please explain..."

In a phone conversation on December 10, 2010, you explained that HNA would immediately begin to arrange for the disposal of the hazardous waste and send a copy of the manifest to Ohio EPA. You also explained that you would have HNA dispose of the non-hazardous waste and send a copy of the shipping papers to Ohio EPA.

2. **Waste Evaluation**  
**OAC Rule 3745-52-11**

A generator must determine whether its waste is hazardous by first determining if the waste is listed as a hazardous waste in rules 3745-51-30 to 3745-51-35; by testing the waste according to the methods set forth in rules 3745-51-20 to 3745-51-24; or by applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used. HNA failed to adequately evaluate the waste in one hundred nine drums, one large wooden tank, one plastic tote and one steel 55-gallon drum found in the open truck lot property. Since the initial complaint investigation, HNA has sampled and analyzed most of the waste.

However, in order to abate this violation, you must immediately do the following:

1. Submit a MSDS for the glue.

**The MSDS for Henkel's OPTAL 10-7016 was attached to your September 27, 2010, response letter.**

2. Identify the waste compounds in the drums, tote and tank.

**In the September 27, 2010, response letter, HNA states that it found 109 drums in the Bloom Road property and identified 71 drums of waste Zesty Smoke Flavorings, 22 drums of waste Quorum Yellow, 9 drums of waste Lubri-Klenz LF, 3 drums of waste caustic soda (sodium hydroxide), 1 drum of waste sulfuric acid and 1 drum of waste OPTAL 10-7016. Furthermore, HNA states that it had identified another drum of hazardous waste, BT-85, containing caustic soda with a pH of 12.7.**

**In the September 27, 2010, response letter HNA explains that Clean Harbors had Belmont Labs test samples from BT-40 and BT-84. Belmont Labs found sodium present, which is expected in caustic soda (sodium hydroxide). Belmont Labs tested a sample of BT-96 and found sulfate present, which is expected in sulfuric acid.**

However, Ohio EPA has determined that HNA has failed to sample and analyze the waste in, at least, the following nine drums: BT-49, BT-51, BT-68, BT-73, BT-75, BT-81, BT-82, BT-83, and BT-94. HNA must properly sample and analyze the waste in these containers immediately and provide Ohio EPA with a copy of the analytical report. This was communicated by phone to you on November 29, 2010.

Finally, concerning the wooden tank and the plastic tote, in your September 27, 2010, response letter you report that these were dismantled by the contractor performing the cleanup of the site. The contractor was Mike Abdoo of Abdoo Wrecking. Mr. Abdoo stated that both the tank and the tote were empty when he removed them from the site.

3. Explain the difference between container BT-89A (pH 9) and BT-89B (pH 13.8).

In the September 27, 2010, response letter HNA explains that the reference to BT-89B was a typographical error. This drum is really BT-84. Attached to your letter is an email message from Mike James indicating this.

4. Describe, in detail, the analytical methods for both pH and flash point. Include at least a description of the analytical device and its calibration. Describe the buffer solutions used for calibrating the pH meter and any other quality assurance quality control measures used.

In the September 27, 2010, response letter, HNA explains that flash point was determined through a standard open cup test method. HNA also explains that Clean Harbor conducted pH tests with an Accumet Basic AP15 meter by Fisher Scientific with probe number 13-620-530. Michael James' September 17, 2010, email reveals that the pH meter was only calibrated with buffers of pH 4 and 10. Mr. James further states that "One of the pH buffer solutions is read and logged in the journal after every five samples. Corrective action is taken if any of the known solutions vary by more than 0.1 units."

The introduction to Chapter Six of SW-846 states "This chapter addresses procedures for method-defined parameters, where the analytical result is wholly dependent on the process used to make the measurement. Changes to the specific methods may change the end result and incorrectly identify a waste as nonhazardous. Therefore, when the measurement of such method-defined parameters is required by regulation, those methods are not subject to the flexibility afforded in other SW-846 methods."

SW-846 Method 9045D, Section 3.0 Interferences, Paragraph 3.1 states "Samples with very low or very high pH may give incorrect readings on the meter. For samples with a true pH of >10, the measured pH may be incorrectly low.

**This error can be minimized by using a low-sodium-error electrode. Strong acid solutions, with a true pH of <1, may give incorrectly high pH measurements."**

**SW-846 Method 9045D, Section 5.0 Reagents, Paragraph 5.3 states "Primary standard buffer salts are available from the National Institute of Standards and Technology (NIST) and should be used in situations where extreme accuracy is necessary. Preparation of reference solutions from these salts requires some special precautions and handling, such as low-conductivity dilution water, drying ovens, and carbon-dioxide-free purge gas. These solutions should be replaced at least once each month." Paragraph 5.4 states "Secondary standard buffers may be prepared from NIST salts or purchased as solutions from commercial vendors. These commercially available solutions, which have been validated by comparison with NIST standards, are recommended for routine use."**

**SW-846 Method 9045D, Section 7.0 Procedure, Paragraph 7.1.2 states "Each instrument/electrode system must be calibrated at a minimum of two points that bracket the expected pH of the samples and are approximately three pH units or more apart. Repeat adjustments on successive portions of the two buffer solutions until readings are within 0.05 pH units of the buffer solution value. If an accurate pH reading based on the conventional pH scale [0 to 14 at 25°C] is required, the analyst should control sample temperature at 25±1°C when sample pH approaches the alkaline end of the scale (e.g., a pH of 11 or above)."**

**According to the September 27, 2010, response letter and attachments, HNA has not performed pH testing for its waste properly. It appears that SW-846 Method 9045D was not used. HNA did not address the probable interferences inherent when evaluating waste with a low or high expected pH; HNA did not provide all the necessary buffer solutions; HNA did not provide buffer solutions that bracketed the expected pH of the wastes and were approximately three pH units apart; HNA did not repeat adjustments on successive portions of the two buffer solutions until reading were within 0.05 pH units; and HNA apparently did not control sample temperature.**

**Therefore, Ohio EPA has determined that, at least, the following six drums contain corrosive hazardous waste (D002): BT-3, BT-22, BT-31, BT-54, BT-63, and BT-64. If HNA wishes to disprove this determination it must perform detailed and accurate pH analyses and document all steps required by SW-846 method 9045D. This was communicated by phone to you on November 22 and November 29, 2010. On December 10, 2010, you indicated in a phone conversation that you would have Clean Harbors reanalyze the waste.**

5. Provide the analytical results for the waste in the steel 55-gallon drum.

**You provided a photo of this drum in an email message on September 23, 2010. The waste was sampled and analyzed and found to be non-hazardous. This data was added to the table in Attachment A, which was attached to your September 27, 2010, response letter.**

6. Provide a statement that there is no other waste in the truck lot area.

**HNA must state that it has evaluated the waste in the containers and tank, and any other waste discovered at the facility by Ohio EPA or HNA, in accordance with the requirements of Ohio Administrative Code Rule 3745-52-11 and this letter.**

3. **Container Labeling**  
**OAC Rule 3745-52-34(A)(3)**

While being accumulated, each container must be labeled or marked clearly with the words "Hazardous Waste".

HNA failed to label drums of corrosive hazardous waste being accumulated outside in the open truck lot with the words "Hazardous Waste".

**In order to correct this violation, HNA must label all the drums of corrosive hazardous waste, identified in this letter, with the words "Hazardous Waste", immediately, and submit photographic documentation that this has been done.**

4. **Container Labeling**  
**OAC Rule 3745-52-34(A)(2)**

The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container.

**HNA failed to mark drums of corrosive waste being accumulated outside in the open truck lot with the accumulation date for the waste. In order to correct this violation, HNA must immediately ship all the hazardous waste identified in this letter to a permitted hazardous waste facility and submit copies of the manifests documenting this.**

5. **Container Inspections**  
**OAC Rule 3745-66-74**

The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. The owner or operator must record inspections in an inspection log or summary.

**HNA failed to conduct and record inspections of the area where corrosive hazardous waste containers were stored for at least ten years. In order to correct this violation HNA must conduct and record inspections of the containers accumulated outside in the open truck lot. HNA must submit copies of the inspection records to Ohio EPA.**

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**6. Maintenance and Operation of Facility  
OAC Rule 3745-65-31**

Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

**HNA did not operate the truck lot where corrosive hazardous waste was stored in a manner that protected human health and the environment. The lot is open and not secured and most of the drums were not closed. In order to correct this violation, HNA must provide security for the storage area and conduct and record inspections of the storage area until the corrosive hazardous waste is shipped to a permitted hazardous waste facility.**

If you have any questions about this letter or your requirements, please contact me immediately at (419) 373-3074. You can find copies of the rules and other information on the division's web page at <http://www.epa.ohio.gov>. Ohio EPA also has helpful information about pollution prevention at <http://www.epa.ohio.gov/ocapp>.

Sincerely,



Don North  
District Representative  
Division of Hazardous Waste Management

//lr

pc: Colleen Weaver, DHWM, NWDO  
Cindy Lohrbach, DHWM, NWDO  
~~DHWM, NWDO File, Sandusky County, Heinz File (New)~~

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.