



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korleski, Director

Re: Heinz North America
OHD005034301
Sandusky County
Complaint #2982
Hazardous Waste
Notice of Violation

August 23, 2010

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

Dear Ms. Shell:

Thank you for accompanying me during Ohio EPA's July 21, 2010, complaint investigation (CI) of Heinz North America (HNA) located at 1200 North Fifth Street in Fremont, Ohio. We were also accompanied by Mr. Joe Parkhurst of HNA. According to the complaint, received by Ohio EPA on June 22, 2010, HNA may be responsible for abandoning white, plastic, 55-gallon drums in a fenced in wooded area along Bloom Road in Fremont. This letter will explain the violations I found, what you need to do to correct the violations and the validity of the complaint.

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 is 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.

On July 21, 2010, you explained that about two weeks prior to my investigation you were informed by HNA staff about the drums in the fenced area and you went back to investigate. However, the area was too overgrown to get to the drums. You explained that the property was used in the 60's for employee housing and has fallen into disrepair. At some point the property was also used for a pickling process, which has been mostly demolished. You stated that the drums looked like ones that would have been triple rinsed and should not have waste in them. But the site has not been used since 2000 and no one at HNA is sure about the condition of the drums or their contents. HNA's long term plan is to remove the vegetative growth and demolish the buildings.

During our discussions on July 21, and then on July 27, 2010, you committed to clear the lot, have Clean Harbors open each container to sample the contents, provide any analytical results to Ohio EPA as soon as they are available, and ship any waste that is found off-site immediately after the evaluation is complete. Ohio EPA did not inspect the HNA manufacturing facility.

Ms. Cathy Shell
August 23, 2010
Page 2

On August 2, 2010, I returned to HNA to observe as Clean Harbors sampled the waste in the containers. I was accompanied by Emerson Hopfer, Sr. Manager, EHS and Mickey Franz, Sr. Manager EHS both of Heinz. I also met Mike James of Clean Harbors. Joe Parkhurst accompanied us during the sampling activities.

HNA had Clean Harbors segregate the empty containers (30-40 empty drums) from the ones that had waste in them. One hundred nine (109) 55-gallon drums had waste in them. Some of the drums were full and many were only partially full. Many of the containers were open and missing bung caps and some were severely damaged. These drums were divided into two groups. Each group of drums was placed into a rubber containment system. The open drums were covered with plastic bags to keep rain water out until they could be shipped off-site.

HNA believed that most of the drums in group one (the grouping with the most drums) contained Liquid Smoke, used in barbeque sauce. The odor was clearly smoky; a few of the drums contained a dark liquid and many others were lighter, apparently having been diluted with rain water. This has not been confirmed though. HNA agreed to analyze a representative sample of these for pH and flash point to verify they are Liquid Smoke. In group one there were also two drums containing glue. Mr. Parkhurst said that the glue was water-based and used to attach labels to jars. HNA agreed to analyze the flash point and pH to verify this. Group one included a few drums that HNA thought contained a cleaner called Lubri-Klenz. This is a food grade cleaner and HNA will analyze its pH to verify that it's Lubri-Klenz.

In group two there were fewer drums and HNA believed they were the cleaner Quorum Yellow, which was reported to be a NaOH foamer/cleaner. HNA will analyze the pH to verify that they are Quorum Yellow.

On August 2, 2010, I also observed a large wooden tank, a plastic tote and one more steel 55-gallon drum that had liquid in them. Clean Harbors was able to collect a sample from the large wooden tank. It was about ¼ full of liquid. HNA believed the tank was part of the old demolished pickling process. HNA agreed to analyze the sample for pH and flash point. There was not enough liquid in the tote to sample and the drum could not be opened when I was there.

On August 3, 2010, HNA submitted MSDS for Quorum Yellow LP (pH 13.9), Lubri-Klenz LF (pH 9.4) and Product # 707433 (Liquid Smoke).

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-89B 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.

Ms. Cathy Shell
August 23, 2010
Page 3

As a result of my complaint investigation, I found the following violations of Ohio's hazardous waste laws. 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, 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.

HNA has become 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. 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. You must explain to Ohio EPA, in advance, what treatment, storage or disposal facility you will send it to. 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.

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

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

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 had the waste sampled and analyzed.

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

1. Submit a MSDS for the waste.
2. Identify the waste compounds in the drums, tote and tank.
3. Explain the difference between container BT-89A (pH 9) and BT-89B (pH 13.8).
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.
5. Provide the analytical results for the waste in the steel 55-gallon drum.
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, at least, three 55-gallon 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 the drums of corrosive hazardous waste 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, at least, three 55-gallon 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 the hazardous waste 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.

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.

The Division of Hazardous Waste Management has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio. If you haven't already, we encourage you to sign up for this free service. You can find more information at the following Web link: http://ohioepa.custhelp.com/cgi-bin/ohioepa.cfg/php/enduser/doc_serve.php?2=subscriptionpage. Please feel free to share this information with your colleagues.

Ms. Cathy Shell
August 23, 2010
Page 6

If you have any questions, please feel free to contact me 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.