



Environmental
Protection Agency

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

RE: **Silgan Can Company**
OHR000029223
Henry County
DMWM, NWDO
Notice of Violation

July 6, 2011

Mr. Phillip Cesen
Silgan Can Company
12-773 State Route 110; Suite 101
Napoleon, Ohio 43545

Dear Mr. Cesen:

Thank you for sending in the documentation in response to the Ohio Environmental Protection Agency's (Ohio EPA's) Notice of Violation/Return to Compliance (NOV/RTC) dated February 23, 2011. Ohio EPA's letter outlined three general concerns Ohio EPA had with Silgan Can Company's (SCC's) hazardous waste management procedures. In response to Ohio EPA's concerns with waste evaluations and parts washer solvent, SCC submitted several responses. The main responses were received by Ohio EPA on March 28, 2011; April 13, 2011; May 9, 2011; June 9, 2011; and June 16, 2011, and include cover letters, analytical results, non-hazardous waste manifests, and other documentation.

After review of the submitted documentation, Ohio EPA has found that SCC was in violation of additional rules during the February 8, 2011, compliance evaluation inspection. The following is a summary of the violations observed during the February 8, 2011, compliance evaluation inspection and the facility's compliance with respect to each violation. In an attempt to streamline this letter, details concerning previously abated violations or general concerns have been omitted. **Please submit the required information within 30 days of receipt of this letter.**

Violations:

1. **Ohio Administrative Code (OAC) Rule 3745-65-52(E), Content of Contingency Plan:**

This violation is considered abated on February 8, 2011.

2. **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..."

SCC failed to adequately evaluate the following waste streams to determine if they were a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending them off site: a) water-based waste from the coating line, and b) spent parts washer fluid.

- a. **Water-based waste from the coating line-** SCC failed to adequately evaluate the water-based waste from the coating line to determine if it was a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending it off site.

Ohio EPA received analytical results on March 28, 2011, that show the waste stream is hazardous for benzene (D018). A confirmation sample was taken by SCC to verify this result. On May 9, 2011, Ohio EPA received the confirmation sample analytical results. These results confirmed the waste stream is hazardous for benzene (D018). Therefore, SCC must manage this waste as a hazardous waste.

This violation is considered abated on March 28, 2011.

- b. **Spent parts washer solvent-** SCC failed to adequately evaluate the spent parts washer solvent to determine if it was a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending it off site.

Ohio EPA received analytical results on March 28, 2011, that show the waste stream has a flashpoint of 140 degrees Fahrenheit and is hazardous for ignitability (D001). A confirmation sample was taken by SCC to verify this result. On May 9, 2011, Ohio EPA received the confirmation sample analytical results. These results confirmed the waste stream is hazardous for ignitability (D001). Therefore, SCC must manage this waste as a hazardous waste or place this waste stream in an approved continued use program for spent solvent.

This violation is considered abated on March 28, 2011.

In addition to the above violations, Ohio EPA determined that SCC had the following violations with the information submitted on March 28, 2011.

3. **Ohio Revised Code (ORC) Section 3734.02 (F), Unlawful transportation of a hazardous waste:** "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 ..."

SCC caused a hazardous waste to be unlawfully transported to an unauthorized facility for disposal.

During the February 8, 2011, inspection, SCC stated that the water-based waste from the coating line was a non-hazardous waste. SCC generates 825-900 gallons of this waste per month. SCC provided Ohio EPA with the waste evaluation for this waste stream which included generator knowledge and a material safety data sheet. Ohio EPA found this waste evaluation to be inadequate. SCC sampled and analyzed the waste stream twice to determine if it was hazardous waste. Based on the analytical results received by Ohio EPA on March 28, 2011, and May 9, 2011, the water-based waste from the coating line is a characteristic hazardous waste toxic for benzene (D018).

During the February 8, 2011, inspection, Ohio EPA observed that SCC was managing the water-based waste from the coating line as non-hazardous waste and reviewed their shipping papers. Therefore, it was determined that SCC was unlawfully transporting this hazardous waste stream to Tradebe Treatment & Recycling LLC in East Chicago, Indiana as a non-RCRA regulated liquid material. This waste stream was ultimately disposed of at Riverbend Prairie Landfill in Dolton, Illinois, a Subtitle D landfill.

SCC must immediately begin properly storing, treating, and disposing of their hazardous waste. SCC must describe how their hazardous waste will be managed in the future. This includes the type of container the waste will be stored in, where the waste will be stored at the facility, how the container will be labeled, where SCC will send the hazardous waste to be disposed, and how often the hazardous waste will be picked up. This information must be sent to Ohio EPA **within 30 days of receipt of this letter.**

For more information the fact sheet titled A Guide to the Administrative Enforcement Process within the Division of Hazardous Waste Management has been enclosed.

4. **OAC Rule 3745-52-20(A)(1), Manifest - general requirements:** A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a manifest..."

SCC failed to ship the hazardous water-based waste from the coating line (D018) off site utilizing a hazardous waste manifest.

In order to abate this violation, SCC must begin shipping this waste stream off site to an appropriate hazardous waste treatment, storage, or disposal facility (TSDF) utilizing a hazardous waste manifest. **Within 30 days of receipt of this letter**, SCC must submit a copy of the hazardous waste manifest from the most recent shipment of this waste stream that shows the waste stream will be shipped to an appropriate TSDF.

5. **OAC Rule 3745-270-07(A)(1), Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities:** "A generator of a hazardous waste must determine if the waste has to be treated before it can be land disposed..."

SCC failed to determine if the hazardous water-based waste from the coating line (D018) needed to be treated prior to shipping it off site for disposal.

In order to abate this violation, SCC must determine if this waste stream needs to be treated prior to disposal. **Within 30 days of receipt of this letter**, SCC must submit documentation that shows this waste stream has been evaluated and determined if it needs to be treated prior to disposal. This documentation can include a completed land disposal restriction form from the disposal of this waste stream.

6. **OAC Rule 3745-270-07(A)(2), Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities:** "If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the generator's files.

SCC failed to send a one-time written notice to the treatment or storage facility receiving the hazardous water-based waste from the coating line (D018).

In order to abate this violation, SCC must send a one-time written notice to the treatment or storage facility receiving the waste. **Within 30 days of receipt of this letter**, SCC must submit documentation that shows this notice has been properly sent to the treatment or storage facility.

General Concerns:

1. **Waste Evaluations:** This general concern is considered addressed on June 9, 2011.
2. **Continued Use Program for Parts Washer Solution:** During the inspection, SCC stated that their spent parts washer solution was being handled through a continued use program provided by Heritage Crystal Clean (HCC). However, SCC could not provide continued use documentation to Ohio EPA. During a phone conversation with Brent Rambo of HCC on February 9, 2011, Mr. Rambo stated that the solvent at SCC was not in a continued use program.

On March 28, 2011, Ohio EPA received analytical results that show the spent parts washer solvent at SCC is a hazardous waste (D001). On May 9, 2011, Ohio EPA received documentation that SCC's spent parts washer solvent is in HCC's "Solvent Reuse" program.

It is Ohio EPA's understanding that HCC does one of two things with spent solvent in the "Reuse" program. The solvent is either used as is (without further processing, filtering, distilling, etc.) as an ingredient to make roof lapping material or it is distilled at an HCC facility and reused as solvent. The process of utilizing spent solvent as an ingredient in roof lapping material is considered to be a part of Ohio EPA's interpretation of a continued use program. Spent solvent taken from SCC to be used in this manner is not considered a waste and does not need to be manifested off site. However, spent solvent that is taken from SCC to be distilled at an HCC facility and then reused as solvent is NOT considered a part of a continued use program according to Ohio EPA and IS considered a hazardous waste which must be manifested off site.

On June 16, 2011, Ohio EPA received documentation that solvent generated at SCC will be utilized in HCC's "Continued Use" program. This general concern is considered addressed on June 16, 2011.

3. **Drains at Facility:** This general concern is considered addressed on February 23, 2011.

Should you have any questions, please feel free to call me at (419) 373-3065. Please send all correspondence **within 30 days of receipt of this letter**, to Ohio EPA, Northwest District Office, Attn: Kara Reynolds, 347 North Dunbridge Road, Bowling Green, Ohio 43402.

Sincerely,

Kara Reynolds

Kara Reynolds
Environmental Specialist
Division of Materials and Waste Management

/cs

Enclosure

pc: Colleen Weaver, DMWM, NWDO
Kara Reynolds, DMWM, NWDO
Cindy Lohrbach, DMWM, NWDO
~~DMWM/HW, NWDO Henry County File: Silgan Can Company~~

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.