



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: ABB, Inc.
Complaint #2700
Seneca County
OHD 004 181 954
Notice of Violation

September 24, 2008

Mr. Donnell Jackson
Environmental Engineer
ABB, Inc.
2000 Day Hill Road
Windsor, Connecticut 06095

Dear Mr. Jackson:

On June 11, 2008, via email, Ohio EPA received your response to Ohio EPA's Notice of Violation (NOV) letter, dated May 2, 2008. In your response, you further explained and clarified the activities that took place at the site during the summer of 2007. You clarified that the demolished building material was not hazardous, but rather the refractory material that had been abandoned and stored in vessels and equipment was characteristically hazardous for chromium (D007). Additionally, you clarified that the wash water from the cleaning of scrap metal was characteristically hazardous for chromium (D007). The hazardous waste refractory dust was placed directly from the vessels and equipment directly into roll-offs and never was placed in the wash area, but the roll-offs were stored in the western part of the site. The hazardous wash water from the scrap metal cleaning was captured in a small "sump" created in the original concrete warehouse floor. The hazardous wash water was then pumped into a "frac" tank which was located on-site.

On August 1, 2008, I met Mr. Joe Senita at the former Basic, Inc., Pilot Plant site ("site") formerly located at 495 Emma Street, Bettsville, Ohio. While there I toured the location of the former pilot plant (warehouse). The location of the former pilot plant is now covered with what appeared to be dead vegetative cover (see enclosed photos 002 through 011). At one end, the former foundation of the pilot plant can be seen where either the one foot of top soil cover was eroded away or was not placed (see photo 005). While on-site I noted that the former settling pond (just to the northwest of the former pilot plant as indicated on the enclosed U.S. EPA map) appeared to be covered with vegetation. Additionally, I observed that the waste pile which received waste from former plant operations remained and was secured by a chain-link fence (see photo 003). The waste pile fence was in addition to the fencing which already surrounds the entire grounds.

After review of the additional documentation ABB provided in this response, Ohio EPA has determined that an unpermitted waste pile did not occur with regard to the former pilot plant demolition. Therefore, the following violation has been retracted in regards to the waste pile:

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**(1) Unpermitted Storage, Treatment and Disposal
Ohio Revised Code Section 3734.02(E) & (F)**

Ohio EPA determined that since ABB stated in their response that only exempt scrap metal was staged and rinsed on the concrete wash area, ABB did not create an unpermitted waste pile.

However, based on the additional documentation that ABB provided, Ohio EPA has found the following violation of Ohio's hazardous waste laws. ABB must do the following and send me the required information *within 30 days* of your receipt of this letter:

**(1) Unpermitted Storage, Treatment and Disposal
Ohio Revised Code Section 3734.02(E) & (F)**

ORC Section 3734.02(E) states in part that, "... No person shall establish or operate a hazardous waste facility ... without a hazardous waste installation and operation permit ..."

ORC Section 3734.02(F) states in part that, "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 ... except at or to any of the following: (1) A hazardous waste facility operating under a permit in accordance with this chapter ..."

From a record review of this site, sometime during 1989 this site permanently stopped manufacturing refractories. Ohio Administrative Code (OAC) Rule 3745-51-04(C) states that a hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vessel, a product or raw material pipeline, or in a manufacturing process unit, is exempt from certain rules unless the hazardous waste remains in the unit more than ninety days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

ABB failed to remove hazardous waste from a manufacturing process unit within 90 days of the unit ceasing operation. Specifically, ABB did not remove refractory dust (D007) present on site in certain vessels and equipment within 90 days of the units ceasing operation. The refractory dust, which consisted of bulk dry raw solid material which was part of the manufacture of refractories, was present in these vessels and equipment from the date process shut down sometime in 1989, until the demolition activities occurred between July 23, 2007 and September 17, 2007. Therefore, ABB unlawfully stored hazardous waste refractory dust (D007) for greater than 90 days without a hazardous waste facility installation and operation permit.

Please be advised that due to the nature of the violation, Ohio EPA may require closure pursuant to OAC Rules 3745-55-11 through 3745-55-20 and OAC Rules 3745-55-42 through 3745-55-47 at this site.

Since ABB violated ORC Section 3734.02(E) & (F), ABB is subject to all applicable general facility standards found in OAC Chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have ABB begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

Furthermore, based upon the information submitted, the tour of the grounds and a review of records of the site, Ohio EPA has the following comments:

Comments

1. In your June 11, 2008 letter you explain that in order to remove the wash water, a small "sump" was created in the concrete of the wash area (which was the concrete floor of the old warehouse). Please provide more information regarding the creation of this sump, specifically, how it was created in the floor of the warehouse, what provided its structural strength and what it was constructed of.
2. In your June 11, 2008 letter you explain that a "frac" tank was used to accumulate the hazardous wash water which was generated from the scrap metal washing operation and temporarily stored in the "sump." This tank was subject to the hazardous waste tank standards referenced in OAC Rule 3745-52-34(A)(1)(b), including OAC Rule 3745-66-97(A) and (B), closure of a tank system. Please provide information demonstrating that the closure of this tank system met the closure performance standard found in OAC Rules 3745-66-11(A) and (B) and 3745-66-97(A) and (B).
3. A number of options or processes exist to address your RCRA Corrective Action obligations. One option to consider for properties that are eligible is the State of Ohio's Voluntary Action Program administered by Ohio EPA's Division of Emergency and Remedial Response. Under the Voluntary Action Program, a volunteer who complies with program requirements (Ohio Revised Code Chapter 3746, Ohio Administrative Code Section 300) and certifies that the property meets applicable standards and submits a No Further Action letter to Ohio EPA, will be issued a covenant not to sue (CNS) by the director of Ohio EPA after review by Ohio EPA. A CNS protects the volunteer from state civil liability to perform additional investigation and remedial activities for the property addressed by the covenant. However, Ohio EPA retains its rights regarding RCRA Corrective Action under Ohio law for any areas of the property that are not eligible for the Voluntary Action Program or are eligible but not sufficiently addressed by the voluntary action.

The State of Ohio may have available grants or loans to fund site investigation or cleanup of your facility. Sources of these funds can be found in the Voluntary Action Program Fact Sheet at www.epa.state.oh.us/derr/vap/financial/financon.html. There may be restrictions and/or a requirement for partnering with local government, but money for characterization and remediation is available to eligible applicants. Additionally, you can find copies of Ohio EPA laws and rules and other information on the Ohio EPA web page at www.epa.state.oh.us.

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Should you have any questions, please feel free to call me at (419)373-3058.

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

Sincerely,



Amy Heller
Division of Hazardous Waste Management

/cs

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
~~DHWM, NWDO File - Seneca County General~~

ec: Amy Heller, DHWM, NWDO
Mitch Mathews, DHWM, CO
Dave Sholtis, DHWM, CO
Todd Anderson, Legal, CO

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.