



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: Notice of Violation
Tri State Garden Supply Company
Henry County

July 10, 2008

CERTIFIED MAIL-7006 0100 0004 1318 3347

Mr. Brian Kammeyer
Tri State Garden Supply Company
P.O. Box 451
Archbold, Ohio 43502

Mr. Timothy R. Kasmoch
Tri State Garden Supply Company
P.O. Box 451
Archbold, Ohio 43502

Mr. David Kasmoch, Jr.
Tri State Garden Supply Company, Inc.
Gardenscape, Inc.
P.O. Box 184
Route 38 and Sandy Point Road
Eau Claire, Pennsylvania 16030

Dear Mr. Kammeyer, Mr. Kasmoch, and Mr. Kasmoch:

On February 8, 2008, I, representing the Ohio Environmental Protection Agency (Ohio EPA) Division of Solid and Infectious Waste Management (DSIWM) conducted an inspection of the Tri State Garden Supply Company Class III composting facility (Facility) located in Ridgeville Township, Archbold, Ohio. This inspection was conducted to verify compliance with Ohio Administrative Code (OAC) Chapter 3745-27. Also present for the inspection were Dana Martin-Hayden and Tanushree Courlas of Ohio EPA's Division of Surface Water (DSW). The Facility was represented during the site portion of the inspection by Brian Kammeyer and during the daily log review by Ada Shaver. The weather at the time of the inspection was cold and overcast with a light southwest wind. Portions of the Facility were snow covered. Mr. Kammeyer stated that 8.3 inches of rain had fallen on February 4 - 6, 2008.

Violations of the following rules and laws were observed:

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Two

1. **OAC Rule 3745-27-45(A)(4)**, which states:

- (4) *The owner or operator shall not accept any prohibited material at the facility. Prohibited material includes the following:*
- (a) *Any feedstock, bulking agent, or additive other than those feedstock types, bulking agents, or additives authorized by rule 3745-27-40 of the Administrative Code. . .*
 - (h) *Any other material that the facility is otherwise prohibited to accept under federal, state or local laws, regulations and ordinances.*

OAC Rule 3745-27-40(E)(1) states: "(E) Class III composting facilities are: (1) Facilities where the owner or operator may accept only type A, type B, and type C feedstocks, bulking agents, and additives." Type A feedstocks are source-separated yard wastes. Type B feedstocks are source-separated plant materials, including stems, leaves, vines, or roots, from an agricultural process. Type C feedstocks are source-separated animal wastes: animal excreta, bedding, wash waters, waste feed, and silage drainage.

OAC Rule 3745-27-01(B)(8) defines a bulking agent as: ". . . a material added to a composting system to provide structural support, improve aeration, or absorb moisture from the decomposing waste and includes only the following source-separated materials: wood chips, straw, shredded newspaper, shredded cardboard, sawdust, shredded brush, biodegradable containers, stover, and materials otherwise authorized in accordance with rule 3745-27-40 of the Administrative Code. Bulking agent does not include any wood that has been treated with preservatives containing arsenic or chromium."

Several windrows and at least three piles containing mixed N-Viro soil, animal manure, and wood waste from Sauder Woodworking were located at the Facility, including, but not limited to, Pile #32, Piles AR and BR, the wedge pile at the east end of the field, and Windrows #12 and 15 on the north side of Owl Creek, and Windrows # 1, 4, 5, 7, 8, 9, 10, and 11 on the south side of Owl Creek. Please refer to the tracking map in Appendix B.

- A. The ground particle board from Sauder Woodworking in Archbold ("wood waste") that had been mixed with the N-Viro Soil and manure results from the sanding, sawing, drilling, and edge banding of fiber board and particle board furniture components and contains foreign material such as paper and plastic edge banding and paper laminate. This material is not a Type A, Type B, or Type C feedstock and does not meet the definition of bulking agent. The Sauder wood waste is therefore a prohibited material.

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Three

- B. The N-Viro International website states: "*N-Viro Soil produced according to the N-Viro Process specifications is an "exceptional quality" sludge product under the Part 503 Regulations.*" [<http://www.nviro.com/soil.html>], June 4, 2008.] US EPA's "A Plain English Guide to the EPA Part 503 Biosolids Rule" states: "*Sewage sludge includes . . . any material derived from sewage sludge (e.g., a blended sewage sludge/fertilizer product . . .*" [http://www.epa.gov/owm/mtb/biosolids/503pe/503pe_1.pdf], page 4, June 4, 2008.] This material meets the definition of a Type I feedstock, which are ". . . *source-separated organic wastes, excluding wastes listed for any other feedstock type, that have resulted from industrial or commercial manufacturing processes or treatment works treating domestic sewage.*" Class III compost facilities shall not accept Type I feedstocks. N-Viro Soil is therefore a prohibited material. This use of N-Viro Soil is further discussed in Violation #3B.

Fly ash, as discussed in detail in a September 4, 2007 letter from Alison Shockley, also remains on site. Fly ash was observed in the north portion of the Facility, and appears to have been used to change the facility grade and construct roads and composting pads. During previous inspections, fly ash was also observed mixed into some of the compost piles and windrows on site.

- C. Ohio EPA has reviewed all information provided regarding the fly ash and maintains that it is a residual solid waste pursuant to OAC Rule 3745-30-01(B)(1). Residual solid wastes are subject to the disposal requirements of OAC Rule 3745-27-05(A):

- (A) *Disposal of solid waste under Chapter 3734. of the Revised Code shall only be by the following methods or combination thereof:*
- (1) *Disposal at a sanitary landfill facility licensed in accordance with section 3734.05 of the Revised Code.*
 - (2) *Incinerating at an incinerator licensed in accordance with section 3734.05 of the Revised Code.*
 - (3) *Composting at a composting facility licensed or registered in accordance with section 3734.05 of the Revised Code.*
 - (4) *Alternative disposal methods either as engineered fill or land application, provided that the applicant has received prior authorization from the director that use as engineered fill or land application of the solid wastes will not create a nuisance or harm human health or the environment and is capable of complying with other applicable laws.*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Four

The Tri State facility is not a sanitary landfill facility or an incinerator. The fly ash is not a Type A, Type B, or Type C feedstock and does not meet the definition of bulking agent. The owner/operator has not requested or received authorization from the director for an alternative disposal method. Use, disposal, and composting of this fly ash at the Tri State Facility are therefore prohibited and the fly ash is a prohibited material. The fly ash must be removed from the Facility and properly disposed.

The owner/operator is in violation of OAC Rule 3745-27-45(A)(4) for accepting prohibited materials. Each acceptance of prohibited material is a separate and distinct recurring violation of this rule.

The owner/operator's management of the prohibited materials must comply with OAC Rule 3745-27-45(C)(2), which states:

- (2) *All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*
 - (a) *All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.*
 - (b) *All incidents concerning the prohibited material shall be noted in the daily log.*
 - (c) *With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.*
 - (d) *The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations.*

All prohibited materials - the N-Viro Soil/manure/wood waste blend and the fly ash - must be removed from the Facility and taken to a facility that is allowed to accept them, i.e. in Ohio, a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept the specific material. The owner/operator's management of the prohibited material is further discussed in Violations #4 and #5.

2. **OAC Rule 3745-27-45(E)(1)**, which states in pertinent part:

- (E) *Methods of composting utilized at a class I, II, or III composting facility include the following:*
 - (a) *Windrow composting. The windrow construction and turning frequency shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Five

- (b) *In-vessel composting. The construction and turning frequency shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*
- (c) *Aerated static pile composting. The construction, including the aeration system, shall enable controlled biological decomposition under primarily aerobic conditions to be maintained throughout the composting process.*
- (d) *Any combination of composting methods that includes one or more methods identified in this paragraph . . .*
- (e) *Other methods of composting may be utilized after approval by the director. . . .*

Four large un-aerated static piles are located at the Facility: Pile #17, Pile #22, Pile D, and Pile #32. See the tracking map in Appendix B. Un-aerated static piles are not included in the authorized methods of composting described above. The director has not approved this method. Materials to be composted must be managed utilizing an authorized composting method.

The owner/operator is in violation of OAC 3745-27-45(E)(1) for utilizing an unauthorized composting method.

3. **OAC Rule 3745-27-41(B)**, which states (**emphasis added**):

- (B) *No person shall substantially change a currently registered composting facility without first submitting the notification required by paragraph (D) or (E) of this rule. Thirty days after the receipt of a **completed** notification by Ohio EPA, the owner or operator may commence operations in accordance with the proposed change provided that applicable requirements of Chapter 3745-27 of the Administrative Code and Chapters 3704. and 6111. of the Revised Code have been met. A written explanation describing the nature of the substantial change shall be submitted with the notification. For the purposes of this rule, a substantial change includes, **but is not limited to**, the following:*
- (1) *A change in the physical location of the entire facility.*
 - (2) *For a class II composting facility, a change in the total capacity or in the authorized maximum daily waste receipt established for the facility resulting in an increase of the facility's financial assurance cost estimate.*
 - (3) *A change in the type of feedstock, bulking agent, or additive received when the acceptance of the new feedstock type, bulking agent, or additive requires a change in the class of the facility.*
 - (4) *A change in ownership of the facility.*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Six

and **OAC Rule 3745-27-45(A)(1)**, which states in pertinent part:

General operational requirements. The owner or operator of a composting facility shall operate the facility in accordance with the following:

(1) *The owner or operator of a composting facility shall operate the facility in compliance with the applicable authorizing document(s). Such authorizing documents may include . . . information submitted for the registration in accordance with rule 3745-27-41 of the Administrative Code.*

- A. The Facility's layout is substantially changed from that depicted in the site plan drawing (Drawing) submitted with the original February 17, 1993 registration application. Please see the November 2, 2007 letter regarding the October 4, 2007 inspection for specifics.

The owner/operator is in violation of OAC Rule 3745-27-41(B) for substantially changing the layout of a currently registered Class III composting facility without first submitting the notification required by OAC Rule 3745-27-41(D) and of OAC Rule 3745-27-45(A)(1) for failing to operate the facility in compliance with information submitted for the registration.

- B. As detailed in Violation #1, above, several piles containing mixed N-Viro Soil, animal manure, and wood waste from Sauder Woodworking were located at the Facility.

N-Viro Soil is an "exceptional quality sludge" (EQS) and is a Type I feedstock. Sauder wood waste is not included in the definition of bulking agent. It is therefore an alternate bulking agent.

On February 17, 1993, the owner/operator requested registration as a Class III compost facility. Class III compost facilities shall not accept Type I feedstocks and may not request approval to accept alternate bulking agents. OAC Rule 3745-27-40(D)(1)(b) states that Class II composting facilities may accept Type I feedstocks and/or alternate bulking agents with the prior approval of the director of Ohio EPA. Therefore, the acceptance of N-Viro Soil and Sauder wood waste requires a change in the class of the facility.

The owner/operator is in violation of OAC Rule 3745-27-41(B)(3) for changing the feedstocks accepted, and accepting an alternate bulking agent, resulting in a required change in the class of the

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008

Facility, without first submitting the required notification and obtaining the required approvals.

Should the owner/operator desire to continue the use of N-Viro Soil as a feedstock, or utilize alternative bulking agents, the owner/operator must complete the following before accepting N-Viro Soil or alternate bulking agents:

- Provide the notification required for a Class II composting facility as described below, and
- Obtain an operating license from the licensing authority, and
- Obtain approval from the director to use the Type I feedstock and each alternate bulking agent.

C. The size of the Facility is significantly greater than that depicted on the Drawing. OAC Rule 3745-27-40(E)(2) states:

(E) *Class III composting facilities are: . . .*

- (2) *Facilities where the limits of materials placement is less than one hundred and thirty-five thousand square feet of total area.*

One hundred and thirty-five thousand square feet is approximately 3.1 acres. It is estimated that the Facility's current materials placement area covers nearly 15 acres. The Facility no longer meets the definition of a Class III composting facility.

The owner/operator is in violation of OAC Rule 3745-27-41(B) for failing to submit the notification required by OAC Rule 3745-27-41(D) despite having increased the size of the Facility such that it no longer meets the definition of a Class III composting facility.

A registration notification for a Class II facility, an application for an operating license, and a request to accept alternate materials at the Archbold location were received by Ohio EPA on February 8, 2008 and are currently under review.

4. **OAC Rule 3745-27-45(I)(3)(d)**, which states:

(3) *If cross-contamination occurs, the owner or operator shall do one of the following: . . .*

- (d) *Remove and properly manage the contaminated feedstock, cured compost, bulking agent, or additive if the cross contamination is from a prohibited material.*

The July 12, 2005 inspection report from the Henry County Health Department regarding the March 31 and April 4, 2005 inspections requested a detailed

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Eight

written description of how the owner/operator managed the two cross contamination events described in detail in that report. To date, no such reply has been received from the owner/operator.

In addition, cross contamination was observed during the Henry County Health Department's March 17, 2006 inspection. The large "half and half" pile then located east of the warehouse was comprised of animal manure in one half and a mixture of N-Viro Soil/manure/wood waste in the other. Mr. Kammeyer stated that this pile has been distributed by the Facility.

The owner/operator is in violation of OAC Rule 3745-27-45(I)(3)(d) for failing to properly manage the cross-contaminated materials identified during the March 31 and April 4, 2005 and March 17, 2006 inspections.

In addition, the piles and windrows containing:

- Mixed N-Viro Soil, animal manure, and wood waste from Sauder Woodworking, and
- Hardened fly ash chips and chunks that have been mixed into the windrows and piles as they are turned, combined, relocated, etc.

have been cross contaminated as detailed below:

OAC Rule 3745-27-45(I)(1)(d) states:

- (1) *For the purposes of this rule, "cross contamination" means any of the following: . . .*
- (d) *The intentional or unintentional mixing of a prohibited material, as specified in paragraph (A)(4) of this rule, with an authorized feedstock, bulking agent, or additive.*

This cross contaminated material must be removed and properly managed, i.e. taken to a municipal solid waste landfill or a Class I or II composting facility that has obtained prior approval to accept it. Failure to properly manage this cross contaminated material will result in violation of OAC Rule 3745-27-45(I)(3)(d).

5. **OAC Rule 3745-27-45(C)(2), which states:**

- (2) *All reasonable measures shall be employed to prevent acceptance of prohibited material at the facility. If prohibited material is detected:*
 - (a) *All reasonable measures shall be employed to control and remove the prohibited material from the materials placement area, including but not limited to, windrows, piles, or in-vessel composting systems.*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Nine

- (b) *All incidents concerning the prohibited material shall be noted in the daily log.*
- (c) *With any incoming feedstock, bulking agent, or additive, the owner or operator shall refuse acceptance of the prohibited material.*
- (d) *The owner or operator shall properly manage the prohibited material in accordance with all applicable laws and regulations.*

As discussed in detail in Violation #1, N-Viro Soil and Sauder wood waste are prohibited materials. The piles containing these materials should have been removed from the Facility and taken to a facility that can accept them, i.e. a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept the material.

Instead, the vast majority of the materials containing N-Viro Soil and Sauder wood waste have been distributed for sale. Only about 15% of the original amount of material remains on site.

The owner/operator is in violation of OAC Rule 3745-27-45(C)(2) for failing to:

- **Control and remove the N-Viro Soil and Sauder wood waste from the materials placement area;**
- **Note all incidents concerning N-Viro Soil and Sauder wood waste in the daily log;**
- **Refuse acceptance of N-Viro Soil and Sauder wood waste; and**
- **Properly manage the N-Viro Soil and Sauder wood waste in accordance with all applicable laws and regulations.**

The remaining N-Viro Soil/Sauder wood waste blend and the fly ash currently located at the Facility (and anything mixed with it) must be managed in accordance with OAC Rule 3745-27-45(C)(2). To avoid a future violation of OAC Rule 3745-27-45(C)(2), remove these material from the Facility and take them to a facility that can accept them, i.e. a licensed solid waste landfill or a Class I or II composting facility that has obtained approval from the director to accept them.

The river dredge materials noted on the site in previous inspections has been removed from the site and taken to a Gardenscape site in the state of Pennsylvania.

6. **OAC Rule 3745-27-45(H)(3)(b)**, which states:

- (3) *The owner or operator of a class I, II, III or IV composting facility shall do the following: . . .*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Ten

- (b) *Take action to minimize the production of leachate and control, or eliminate ponding of leachate and the conditions that contribute to the discharge of leachate from the facility.*

Numerous areas of ponded leachate were observed throughout the Facility. See the tracking map in Appendix B and Photos A1 – A4 in Appendix A.

The owner/operator is in violation of OAC Rule 3745-27-45(H)(3)(b) for failing to take action to eliminate the ponding of leachate at the Facility.

7. **OAC Rule 3745-27-45(C)(4)**, which states:

The owner or operator shall maintain access roads at the facility to allow for passage of loaded vehicles during inclement weather conditions.

Many of the roads in the Facility were rutted and covered with mud or standing water. See Photo A5 in Appendix A.

The owner/operator is in violation of OAC Rule 3745-27-45(C)(4) for failing to maintain access roads.

8. **OAC Rule 3745-27-45(C)(1)(e)**, which states:

The owner or operator of a composting facility shall conduct operations at the composting facility in such a manner that: . . .

- (e) *Water pollution is not created and Chapter 3704. of the Revised Code or any rule promulgated thereunder is not violated.*

and OAC Rule 3745-27-45(H)(3)(a), which states:

The owner or operator of a class I, II, III or IV composting facility shall do the following:

- (a) *Manage leachate in accordance with Chapter 6111. of the Revised Code.*

and OAC Rule 3745-27-45(H)(4)(b), which states

The owner or operator of a class I, II, or III composting facility shall do the following: . . .

- (b) *Collect and contain leachate within the boundary of the composting facility and prevent leachate from discharging to waters of the state. Leachate*

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Eleven

may be collected and contained for re-introduction into the composting process.

Several discharges of leachate to Owl Creek were noted during the inspection. See Photos A6 and A7 in Appendix A. The discharges are described in detail in the April 1, 2008 letter regarding the inspection from Dana Martin-Hayden of Ohio EPA's Division of Surface Water. Ms. Martin-Hayden's letter cites violations of Chapter 6111. of the Revised Code.

The owner/operator is in violation of OAC Rule 3745-27-45(C)(1)(e), OAC Rule 3745-27-45(H)(3)(a), and OAC Rule 3745-27-45(H)(4)(b), for creating water pollution, failing to manage leachate in accordance with ORC 6111, and failing to collect and contain leachate within the Facility and prevent leachate from discharging to waters of the state.

9. **OAC Rule 3745-27-45(J)(2)**, which states:

Records retention. Upon request, copies of the records specified in this paragraph shall be submitted to the approved health department or Ohio EPA. The owner or operator of a composting facility shall have the following records available for a period of no less than three years: . . .

(2) The daily log forms required by paragraph (K) of this rule.

and OAC Rule 3745-27-45(K)(3)(c), which states:

The owner or operator of a composting facility shall record the facility operations on a daily log. The daily log information shall: . . .

(c) Be submitted, upon request, to the approved health department or Ohio EPA. . . .

The June 29, 2007 inspection report regarding the June 14th and 28th inspections included a request that the owner/operator provide Ohio EPA with "copies of all daily log of operations forms from January 1, 2005 through the present." The November 2, 2007 letter regarding the October 2, 2007 inspection documented the receipt of some of the requested daily log forms for 2005 and 2006 and stated in part: "Upon receipt of this letter, forward ALL daily log of operations from January 1, 2005 through the present to my attention. . ." The remainder of the logs for 2005 and 2006 were received on December 3, 2007. To date, the completed daily log forms for 2007 have not been received as requested in the November 2, 2007 letter and discussed during the inspection.

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Twelve

The owner/operator is in violation of OAC Rule 3745-27-45(J)(2) and OAC Rule 3745-27-45(K)(3)(c) for failing to provide copies of completed daily log forms to Ohio EPA upon request, as required.

Upon receipt of this letter, forward copies of all daily log of operations forms completed for 2007 to my attention at the letterhead address.

The following items were also noted during the inspection:

- The daily operations forms were reviewed during the inspection:
 - Form 1: Annual Cover Sheet.
 - Completed and on file as required.
 - Form 2: Incoming Materials & Distribution.
 - The incoming materials log documented receipt of only animal waste (AW) from October 3, 2007 through January 31, 2008.
 - Form 3: Materials Management.
 - Logs were completed for October 3 through November 14, 2007 and January 3 – 22, 2008.
 - Temperatures, turning, construction of new windrows, combination of windrows, and stage of piles/windrows had been recorded.
 - Removal of the river dredgings to Pennsylvania was documented in the daily logs. In addition, a copy of a shipping log documenting removal of river dredgings from September 21 through December 28, 2007 was provided.
 - Form 4: Daily Inspection Checklist.
 - Checklists were completed for October 3 through December 28, 2007 and January 2 through February 8, 2008.
- The tracking system required by OAC Rule 3745-27-45(K)(4) was reviewed: Ms. Shaver provided copies of the site tracking map for October 26, 2007 – January 31, 2008. The January 31, 2008 tracking map appeared to reflect the conditions of the site at the time of the inspection, with the exception of Windrow 35, which had been moved to the curing pile at the east end of the area north of Owl Creek, and the presence of piles of peat and top soil near the area where materials are received.
- The contingency plan required by OAC Rule 3745-27-45(A)(6) was located in the daily log binder. Ohio EPA reviewed the plan and has the following comment:
 - OAC Rule 3745-27-45(A)(6) requires the ". . . *contingency plan to address discovery of prohibited material, fire, explosion, spills, and equipment failure.* . . ." The plan provided includes details on maintenance and

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Thirteen

inspection of equipment but does not address how the owner/operator will address equipment failure. Please revise the contingency plan to address the owner/operator's planned response to equipment failure and provide a copy to Ohio EPA.

- The distances between the ends of windrow and the meander line of Owl Creek were measured for the windrows that appeared closest to the creek. All were found to be at least one hundred feet from the creek as required by OAC Rule 3745-27-45(M)(4). Violations of this rule previously identified have been corrected.
- The windrows of N-Viro Soil/manure/wood waste blend observed on the north side of Owl Creek during the October 4, 2007 inspection, have been moved into a large pile on the east side of the property, also north of the creek. Mr. Kammeyer described the pile as a wedge during the inspection and stated that the material had finished composting and was curing. Although this mixture contains prohibited material and cannot be distributed, Ohio EPA wanted to discuss the curing pile concept.

It is acceptable to cure material that has finished composting in a pile. Compost can be considered finished if its temperature has stabilized and re-heating does not occur after an individual windrow is turned and the pile resulting from the mixing of material from several windrows together does not re-heat. If the combined pile re-heats to above ambient temperatures, then the composting process is not complete and the material must be divided back into windrows or aerated static piles to complete the composting process. Ohio EPA recommends the owner/operator continue to record the temperatures of this curing pile, to verify the composting process is complete.

- The site tracking maps and daily logs document construction of two small piles east of windrows 1 through 10 in the field south of Owl Creek. The construction of the piles was described as the combination of loader scoops from several different windrows. The daily log forms document sampling of these small piles, and Analytical Reports were received by the Ohio Attorney General's Office on February 21, 2008. The piles are identified as "AR" and "BR" in the tracking maps and "AF" and "BF" in daily log Form 3 and the sample ID information on the laboratory Analytical Reports. Ohio EPA has the following comments about construction of the piles and analysis of samples collected from the piles:

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Fourteen

- o Ohio EPA's November 2, 2007 letter regarding the October 4, 2007 inspection stated in part: "Each windrow must be sampled and analyzed individually and meet the compost quality standards before combination of windrows OR the windrows may be combined into a pile and the resultant pile sampled and analyzed. It is not acceptable to composite (mix) samples from different windrows into a single sample." The method of combining loader scoops from several different windrows into a small "sampling pile" is just another way of compositing samples from different windrows into a single sample and does not meet the requirement to ensure valid and representative results.

EXAMPLE: If the owner/operator has six 500 cubic yard windrows containing animal waste, straw, and sawdust that are believed to be finished, in order to obtain valid and representative analytical results, the owner/operator must either:

1. Sample all six windrows separately in accordance with OAC Rule 3745-27-46(l)(1); send six separate samples (one for each windrow) to the lab; obtain results that demonstrate that each of the six windrows meets the compost quality standards in Tables 1, 3, 4, and 5; and then distribute the compost from the six windrows; or
2. Combine the **entirety** of each of the six windrows together into a single 3,000 cubic yard pile (six windrows of 500 cubic yards each results in a 3,000 cubic yard pile); sample the large pile in accordance with OAC Rule 3745-27-46(l)(2); obtain results that demonstrate that the large pile meets the compost quality standards in Tables 1, 3, 4, and 5; and then distribute the compost from the large pile.

Method 1 requires analysis of six different samples. Method 2 requires the analysis of only one sample. Both methods, when the sample collection requirements in OAC Rule 3745-27-46(l) are followed, should result in valid and representative results. However, Method 2 will cost the owner/operator less money in laboratory costs.

- o Piles AR/F and BR/F contain N-Viro Soil, Sauder wood waste, and manure. As detailed in Violation #1, above, N-Viro Soil and Sauder wood waste are prohibited materials and must be removed from the Facility and disposed. **These materials may not be distributed even if results of analytical testing of the materials appear to demonstrate compliance with the compost quality standards.**

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Fifteen

- The Analytical Reports do not demonstrate compliance with the compost quality standards. The foreign matter results for Sample ID 012308AF are 1.25% and those for Sample ID 012308BF are 3.75%. The limit for foreign matter in Table 4 of OAC Rule 3745-27-46 is "1.0% by weight on No. 5 sieve (4mm screen) and no more than a fourth of this foreign matter may be plastic." Both samples' foreign matter exceeds the limit. The amount of foreign matter that is plastic is not reported.

- Ohio EPA is unable to evaluate if the samples meet the compost quality standards of OAC Rule 3745-27-46 for many parameters. Ohio EPA's compost quality standards mandate the preparation and analytical methods that must be used for each parameter. Ohio EPA has identified the following issues with the data included in the Analytical Reports:
 - Table 2 – Organics and PCBs
 - ◆ The Analytical Reports list method U.S. EPA 8260 for the organic constituents, benzene, toluene, ethyl benzene, and xylene analyses. Ohio EPA's mandated U.S. EPA method is 8260B.
 - ◆ The Analytical Reports list method U.S. EPA 8015M for total petroleum hydrocarbons analysis. Ohio EPA's mandated U.S. EPA method is 8015B.
 - ◆ The Analytical Reports list method U.S. EPA 8082 for the PCB analysis. Ohio EPA's mandated U.S. EPA method is 8082A.
 - Table 3 – Bacteriological
 - ◆ The Analytical Reports do not list a method for analysis of Salmonella content. Ohio EPA's mandated method is Standard Method part 9260D.
 - Table 4 - Foreign Matter
 - ◆ The required analytical method for the foreign matter test is detailed in Table 4. The Analytical Reports do not list a method for analysis of foreign matter and do not report the amount of foreign matter that is plastic.
 - Table 5 – Compost Parameters
 - ◆ The Analytical Reports list method 150.1 for pH analysis. Ohio EPA's mandated methods include NCR publication 221, U.S. EPA 9045C soil pH, or ASTM D 2976-71.
 - ◆ The Analytical Reports list method SM 2520 B for salinity analysis. Ohio EPA's mandated method is NCR publication 221.
 - ◆ The Analytical Reports list method ASTM D- for total nitrogen analysis. Ohio EPA's mandated method is the Dumas method.
 - ◆ The Analytical Reports list method U.S. EPA 9060A for the total

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Sixteen

organic carbon analysis. Ohio EPA's mandated U.S. EPA method is 9060.

In order to use preparation and/or analytical methods other than those stated in OAC Rule 3745-27-46, the owner/operator must demonstrate that the alternate methods are equivalent to those required by rule or obtain a variance from the requirements of OAC Rule 3745-27-46 for methods that are not equivalent.

- A large pile identified as sewage sludge from Fort Wayne, IN, was located in the mixing/bagging area. Ensure that this pile remains outside of the Class III composting facility boundary. Please keep in mind that if the owner/operator would like to use this material as a feedstock, the steps outlined in Violation #3B need to be followed before doing so.

Additional Comment(s)

- A. Violation #5 in the November 2, 2007 letter regarding the October 4, 2007 inspection detailed the owner/operator's violation of OAC Rule 3745-27-46(I) for failing to have samples of the material currently in Pile B that were collected on June 22, 2007 for analysis for bacteriological parameters prepared and analyzed within eight hours of sample collection. A paragraph after the violation citation detailed Ohio EPA's inability to evaluate the owner/operator's compliance with the compost quality standards of OAC Rule 3745-27-46 for many parameters. The following is the owner/operator's response to this violation and to Ohio EPA's request for additional information in the November 2, 2007 letter:
- ◆ The owner/operator forwarded Ohio EPA's questions to Lois Parker of A & L Great Lakes Laboratory, Inc., for resolution. Ms. Parker sent a letter via email, dated November 3, 2007, which detailed the equivalency of most of the methods questioned in the November 2nd letter and described the owner/operator's submittal of new samples to the laboratory for bacteriological analysis on July 27, 2007 that did meet the eight hour time frame.
 - ◆ Alison Shockley, Supervisor of the Composting and Infectious Waste Unit in Ohio EPA's Central Office, reviewed Ms. Parker's letter, spoke with Ms. Parker via telephone on November 27, 2007, and responded with a letter dated January 11, 2007 that described the unresolved issues:
 - The laboratory is not using U.S. EPA 6010B as the test method for metals, but instead uses U.S. EPA 6020. A variance would be required to resolve this issue.

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Seventeen

- The laboratory's method for total carbon is an estimated method that does not meet Ohio EPA's requirement for use of U.S. EPA 9060 for total carbon analysis. However, the laboratory can subcontract analysis of total carbon to another lab that has the required equipment.
 - ◆ On December 13, 2007, Ohio EPA received updated analytical data that documented results of testing for total carbon using the correct method: U.S. EPA 9060.
 - ◆ On January 16, 2008, Ms. Shockley and I spoke with Brian Kammeyer of Tri State Garden Supply Company and explained the need for a variance for use of U.S. EPA 6020 instead of U.S. EPA 6010B as the test method for metals.
 - ◆ On March 3, 2008, the owner/operator submitted a request for a variance to utilize an alternative test method for the analysis of metals for cured compost.
 - ◆ The variance request was approved on June 23, 2008.
- B. On June 4, 2008, Ohio EPA requested and received copies of Form 3 of the daily logs for January through May of 2008. While reviewing the logs for purposes of tracking pile and windrow movement, Ohio EPA noted an entry on February 22, 2008 concerning Windrow 29 that stated "1/2 of this row hauled up to pile B finished." The materials in Pile B had been sampled and Ohio EPA and the owner/operator were working through the final issues to enable distribution of this pile, as described in Comment A, above. Unless Windrow 29 has already been tested and found to meet the compost quality standards of OAC Rule 3745-27-46, addition of a portion of Windrow 29 to Pile B has cross-contaminated Pile B, as defined in OAC Rule 3745-27-45(l)(1)(c):

- (1) *For the purposes of this rule, "cross contamination" means any of the following: . . .*
- (c) *The intentional or unintentional mixing of feedstocks, cured compost, bulking agents, or additives that do not possess a pathogen concern with any feedstocks, cured compost, bulking agents, or additives that do possess a pathogen concern.*

Prior to the addition of Windrow 29 to Pile B, Pile B had demonstrated that it did not possess a pathogen concern – the samples collected on July 27, 2007 met the standards in Table 3. However, addition of untested Window 29 – a material that does have a pathogen concern - to Pile B has cross-contaminated Pile B. **Pile B must be re-tested and demonstrate that it meets the compost quality standards before it can be distributed.**

Please provide the following (items marked with * are discussed in more detail above):

Mr. Brian Kammeyer
Mr. Timothy Kasmoch
Mr. David Kasmoch
July 10, 2008
Page Eighteen

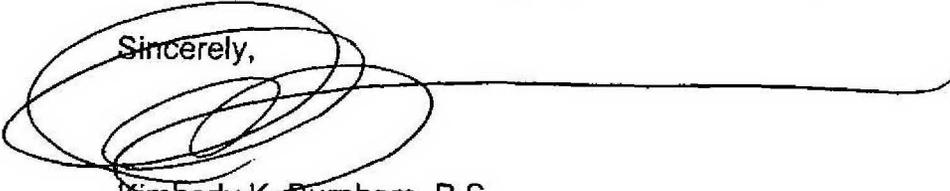
- Submit copies of ALL daily log of operations forms for 2007.*
- Submit a copy of the revised contingency plan.*
- If Windrow 29 was tested before it was combined with Pile B, please submit a copy of the test results.*
- Respond in writing within 30 days of the receipt of this letter with a detailed description of how the owner/operator intends to resolve the violations detailed above. The owner/operator's response should include a detailed timeline for regaining compliance.

This correspondence addresses specific observations only for the areas of the Tri State Garden Supply Company composting facility that were inspected. Nothing present in, nor absent from this correspondence is intended to mean that no other violations existed at the facility at the time of inspection.

Compliance with the requirements outlined in this letter, or the solid and infectious waste provisions contained in the Ohio Revised Code Chapter 3734. and the rules promulgated thereunder, does not relieve the owner/operator Tri State Garden Supply Company from their obligations to comply with other applicable state and federal laws and regulations.

If you have any questions, please have your attorney contact John Cayton of the Ohio Attorney Generals Office at (419) 245-2553 to coordinate our discussion.

Sincerely,



Kimberly K. Burnham, R.S.
Environmental Specialist
Division of Solid and Infectious Waste Management
/lb

PC: Kimberly Burnham, Ohio EPA, DSIWM, NWDO
Alison Shockley, Ohio EPA, DSIWM, CO (w/attachments)
Carl Mussenden, Ohio EPA, DSIWM, CO (w/attachments)
John Cayton, Assistant Attorney General (& via fax 866-890-6654)
(w/attachments)
~~File: Henry County, Gardenscape, Inspections (w/attachments)~~

EC: Dana Martin-Hayden, Ohio EPA, DSW, NWDO
Jennifer Jolliff, Ohio EPA, DAPC, NWDO

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<p>1. Article Addressed to:</p> <p><u>Mr. Brian Kammecker</u> <u>Tri State Garden Supply</u> <u>P.O. Box 451</u> <u>Archbold Oh</u> <u>43502</u></p>	<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>
<p>2. Article Number (Transfer from service label)</p> <p><u>7006 0100 0004 1318 3347</u></p>	<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

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