



**Environmental
Protection Agency**

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

Re: The D.S. Brown Company
OHD987000734
Wood County
Hazardous Waste
Notice of Violation/Partial Return to Compliance

February 24, 2012

Ms. Jennifer McGuckin, EHS Manager
The D.S. Brown Company
300 East Cherry Street
North Baltimore, Ohio 45872

Dear Ms. McGuckin:

Thank you for your December 29, 2011, response to Ohio EPA's December 1, 2011, Notice of Violation/Partial Return to Compliance (NOV/PRTC) letter. The violations cited were discovered during my November 4, 2011, inspection at your facility. The documents you submitted included weekly inspection logs, an internal policy and inspection log for emergency equipment, an internal policy and inspection log for universal waste tracking, and information regarding the drum crushing containment room (manifests, material safety data sheets, dimensions, and new log sheet).

Based upon the drum crushing containment room information and the weekly inspection log for the hazardous waste less than 180-day storage area received on December 29, 2011, Ohio EPA has determined that D.S. Brown is in violation of the following additional Ohio hazardous waste laws:

10. Ohio Revised Code Section 3734.02 (E & F): Permitted Facilities for the Treatment, Storage, and Disposal of 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.

D.S. Brown stored hazardous waste in the drum crushing containment room for greater than 180 days. Manifests submitted by D.S. Brown on December 29, 2011, indicate that the contents of the drum crushing containment room were pumped out and shipped off-site for disposal on the following dates: 6/24/10, 9/15/10, and 9/14/11. Therefore, D.S. Brown stored hazardous waste for greater than 180-days without a permit between 9/15/10 and 9/14/11.

D.S. Brown indicated that the drum crushing containment room was not pumped out in 2009 due to lack of need. It is unclear as to when in 2009 waste began accumulating in the drum crushing containment room prior to its removal on 6/24/10.

D.S. Brown must identify what type of unit (i.e. tank, surface impoundment, miscellaneous unit) they consider the drum crushing containment room to be and submit this information to Ohio EPA. Attached is a U.S. EPA guidance memo to assist you in making this determination. In addition, please provide information regarding how employees were managing the drums when moving them in and out of the drum crushing containment room. Specify whether employees were standing in or exposed to the waste as it was accumulating in the room, what personal protective equipment they were provided with, and if any equipment used to move the drums in or out of the room. If training was provided to the employees working in this area regarding the hazards associated with the contents of the drums they were crushing, please submit this information to Ohio EPA.

D.S. Brown is encouraged to seek other alternatives with regards to your current practice of crushing product drums and allowing the waste to accumulate in the drum crushing containment room. If D.S. Brown were to collect the residual liquids in a 55-gallon drum as they are generated, this drum could be managed under the satellite accumulation rules. The 180-day time limit for storage would not begin until the drum was full. D.S. Brown can submit alternative options to Ohio EPA for review prior to implementation to ensure compliance with the hazardous waste regulations. Please contact me if you need any assistance in this area.

Ohio EPA will review the submitted information and determine if there are any hazardous waste violations associated with the management of the drum crushing containment room. You will be notified of any additional violations in a separate letter.

D.S. Brown stored hazardous waste on at least one occasion (D009, D018, D019, D027, D028, D029) for greater than 180 days: September 15, 2010, to September 14, 2011, (364 days).

Since D.S. Brown violated ORC 3734.02(E&F), D.S. Brown 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 D.S. Brown begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

11. OAC Rule 3745-66-74: Weekly Inspections:

Container storage areas shall be inspected on a weekly basis looking for leaks and for deterioration. These inspections shall be recorded in an inspection log or summary. Ohio EPA interprets weekly to mean once within the seven-day period following the previous inspection.

D.S. Brown was not conducting inspections of the hazardous waste storage area on a weekly basis. D.S. Brown exceeded the weekly inspection requirement when less than 180-day drums of waste were present in the hazardous waste storage area. Specifically, D.S. Brown exceeded the weekly requirement for inspections from 12/19/11 to 12/27/11. The Ohio EPA reviewed with you during our inspection on November 4, 2011, the requirement to conduct weekly inspections when hazardous waste is in the less than 180-day storage area. An example weekly inspection log was previously sent to you via electronic mail.

To abate this violation, D.S. Brown must begin conducting weekly inspections of the hazardous waste storage area and submit four (4) weeks of completed inspection logs to this office.

The following is a summary of the violations discovered during my November 4, 2011, inspection and cited in the December 1, 2011, NOV/PRTC letter and your compliance with respect to each:

1. OAC Rule 3745-52-11, Waste Evaluation:

Any person who generates a waste must determine if that waste is a hazardous waste by using generator knowledge or by testing the waste.

At the time of the inspection, D.S. Brown did not have waste evaluation documentation for the spent paint barn filters. D.S. Brown has historically disposed of this spent material as a non-hazardous/solid waste. D.S. Brown changed the paint barn filters during the last week of October 2011. D.S. Brown must immediately cease disposing of the waste paint barn filters as non-hazardous waste until a proper waste evaluation has been completed.

D.S. Brown must obtain a representative sample of the spent paint barn filter waste stream and have it analyzed for Toxic Characteristic Leaching Procedure (TCLP) Resource Conservation and Recovery Act (RCRA) metals (SW-846 Method 1311/6010) and volatile organics (SW-846 Method 1311/8260).

In the future, (when the paint barn filters need changed) D.S. Brown must take a representative sample of the spent paint barn filters and submit a copy of the analytical results to Ohio EPA. Once analytical results have been reviewed, Ohio EPA will advise you on proper disposal options as well as plans for the future management of this waste stream. Do not dispose of the spent paint barn filters in the solid waste dumpster until you determine if they are hazardous or not.

On November 8, 2011, this violation is considered abated since D.S. Brown recently changed the paint barn filters and you are unable to take a representative sample at this time. D.S. Brown changes the paint barn filters twice a year. D.S. Brown must ensure that you take a representative sample of this waste the next time it is generated. Your compliance will be evaluated in a future inspection.

This violation was previously abated on November 8, 2011.

2. OAC Rule 3745-52-34(D)(5)(b), Preparedness and Prevention:

A generator must post the following information next to the telephone: the name and telephone number of the emergency coordinator; location of fire extinguishers and spill control equipment, and if present, fire alarms; and the telephone number of the fire department, unless the facility has a direct alarm.

D.S. Brown failed to have the required information posted next to the telephone located in the paint barn building.

On November 8, 2011, D.S. Brown submitted, via electronic mail, a copy of the Emergency Communications System Flow Diagram that is now posted next to the telephone in the paint barn office. D.S. Brown also submitted photographic documentation showing the list properly posted in the paint barn office.

This violation was previously abated on November 8, 2011.

3. OAC Rule 3745-65-33, Emergency Equipment:

All facility communications or alarm systems, spill control equipment and decontamination equipment must be tested and maintained as necessary to assure its proper operation in time of emergency. The owner or operator must record the inspections in a log or summary.

D.S. Brown does not test and maintain the emergency equipment located in the paint barn to assure its proper operation in the event of an emergency. These tests are not recorded in a log. It is recommended that the log include the following information: date and time of test, name of person conducting the test, observations made and date/nature of any repairs.

To abate this violation, D.S. Brown must submit a copy of an internal policy regarding the testing and maintenance of all emergency equipment and the frequency of the inspections. D.S. Brown must submit a copy of a completed inspection log to verify compliance with this rule. An example log was sent to you via electronic mail.

On December 29, 2011, D.S. Brown submitted a copy of an internal memo titled "Satellite Hazardous Waste Accumulation & Hazardous Waste Storage Summary". In addition, D.S. Brown submitted a copy of the weekly inspection log that requires the inspector check that the spill control equipment is stocked and readily available.

With this information, this violation has been abated.

4. OAC Rule 3745-52-34(C)(1)(b), Satellite Accumulation Areas:

A generator may accumulate as much as fifty-five gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit provided the containers are marked "Hazardous Waste" or other identifying words of the container's contents.

The paint barn satellite container of waste paint solvent (D001, D035, F003, F005) was not properly labeled "Hazardous Waste" or other identifying words at the time of the inspection.

On November 8, 2011, D.S. Brown submitted, via electronic mail, photographic documentation for the satellite container located in the paint barn that is now properly labeled.

This violation was previously abated on November 8, 2011.

5. OAC Rule 3745-279-22(C)(1): Labeling:

Containers, aboveground tanks, and fill pipes used for underground storage tanks shall be labeled or marked clearly with the words "used oil."

D.S. Brown had four totes and one 250-gallon storage tank of used oil that were not properly labeled.

On November 8, 2011, D.S. Brown submitted, via electronic mail, photographic documentation for the four used oil totes and one 250-gallon used oil tank that are now properly labeled.

This violation was previously abated on November 8, 2011.

6. OAC Rule 3745-273-13(D)(1): Universal Waste: Fluorescent Lamp Management:

All lamps/bulbs being managed as a universal waste must be stored in packages that are structurally sound and adequate to prevent breakage. The packages/containers must be closed.

D.S. Brown did not store the spent fluorescent lamps in containers that were closed.

On November 22, 2011, D.S. Brown submitted, via electronic mail, a copy of the bill of lading from Environmental Recycling who picked up the spent bulbs on 11/22/11 for recycling. D.S. Brown currently has no universal waste bulbs in storage.

This violation was previously abated on November 22, 2011.

7. OAC Rule 3745-273-14(E): Universal Waste: Fluorescent Lamp Labeling:

All packages and containers holding spent fluorescent lamps/bulbs are to be labeled with the words "Universal Waste - Lamps", "Waste Lamps" or "Used Lamps".

D.S. Brown did not have the containers of spent fluorescent bulbs properly labeled.

On November 22, 2011, D.S. Brown submitted, via electronic mail, a copy of the bill of lading from Environmental Recycling who picked up the spent bulbs on 11/22/11 for recycling. D.S. Brown currently has no universal waste bulbs in storage.

This violation was previously abated on November 22, 2011.

8. OAC Rule 3745-273-15(C): Accumulation Time for Universal Waste Batteries and Lamps:

A small quantity handler of universal waste shall be able to demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.

D.S. Brown was unable to demonstrate the length of time the universal waste bulbs in the storage room have been on-site. There were no dates on the spent fluorescent bulbs or storage containers.

In order to correct this violation, D.S. Brown shall establish a written procedure for how you plan to track the length of time the universal waste is accumulated on-site. D.S. Brown shall submit a copy of this procedure to Ohio EPA, NWDO.

On December 29, 2011, D.S. Brown submitted a copy of an internal memo regarding how the facility plans to manage universal waste bulbs. D.S. Brown plans to utilize a universal waste tracking log to monitor how long the universal waste has been accumulated on-site. D.S. Brown will have the universal waste bulbs picked up for recycling by Environmental Recycling located in Bowling Green, Ohio.

With this information, this violation has been abated.

9. OAC Rule 3745-273-16: Universal Waste Employee Training:

A small quantity handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.

D.S. Brown has not ensured that all employees are thoroughly familiar with proper universal waste handling and emergency procedures.

Ms. Jennifer McGuckin, EHS Manager
February 24, 2012
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On November 22, 2011, D.S. Brown submitted, via electronic mail, the sign in sheet for the universal waste training that was given on November 10, 2011. Jennifer McGuckin reviewed the universal waste fact sheets with the Maintenance Manager, Eddie Gonzalez, who will be responsible for managing the universal waste storage area.

This violation was previously abated on November 22, 2011.

Ohio EPA has helpful information about compliance assistance and pollution prevention at the following web address: <http://www.epa.ohio.gov/ocapp>. In addition, you can find copies of the rules and other information on the division's web page at: <http://www.epa.ohio.gov/dhwm/>.

D.S. Brown needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within **14 days** of receipt of this letter, D.S. Brown is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to melissa.boyers@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, D.S. Brown is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Should you have any questions or if I can be of assistance, please contact me at (419) 373-3066.

Sincerely,



Melissa L. Boyers
Division of Materials and Waste Management

//lr

pc: Cindy Lohrbach, DMWM, NWDO
~~Colleen Weaver, DMWM, NWDO (w/original enc.)~~
ec: Colleen Weaver, DMWM, NWDO (scanned e-copy)
Melissa Boyers, DMWM, NWDO
Jeff Mayhugh, DMWM, CO (scanned e-copy)

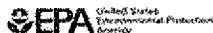
Notice:

Ohio's 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.

QUESTION: What is the difference between a tank and a surface impoundment?

ANSWER: According to the April 15, 1983 guidance memo from Bruce Weddle to Region IV, the unit should be evaluated as if it were free standing and filled to its design capacity with the material it is intended to hold. If the walls or shell of the unit provide enough structural support to maintain structural integrity of the unit under such conditions, the unit is a tank. If the unit needs supporting earthen materials to maintain its structural integrity, it is a surface impoundment. Engineering data and drawings may be necessary to make this determination.

BOOZALLEN & HAMILTON, INC.
FAXBACK 12224



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What is the difference between a hazardous waste container and a tank?

The key difference between the two hazardous waste management units is that a container is a portable device whereas a tank is a unit that remains stationary. Specifically, a container is defined as any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled (40 CFR Section 260.10). In contrast, a tank is defined as a stationary device designed to contain an accumulation of hazardous waste, which is constructed primarily of non-earthen materials that provide structural support (Section 280.10).

Was this answer helpful? [thumbs up/down icons]

Related Topics

- A facility palletizes and shrink wraps expired consumer goods in their original packaging. The expired consumer goods are hazardous waste. Does the facility need to label every container with a hazardous waste label or can it label each pallet with a single label? Would a single label placed on the shrink wrapped pallet be sufficient to meet the label requirements for both accumulation and transportation of hazardous waste?
- How will the 'comparable fuels' rule that EPA promulgated in June 1998 affect sources as they comply with these new Hazardous Waste Combustion Emission Standards?
- How long is the term of my Standardized Permit?

Topic #: 23002-22714 Date Created: 8/19/2004 Last Modified Since: 10/17/2008 Viewed: 311

Last updated on Friday, February 17, 2012

HOW DO I USE ADVANCED SEARCH?

The advanced search function provides the ability to search for specific database criteria including: title, date, author, recipient, regulatory citation, statutory citation, RCRA Online Number, RCRA Permit Policy Compendium (RPPC) number, National Technical Information Service (NTIS) number, and EPA Document Number.

RCRA Online
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Advanced Search

Search for documents that meet ALL of the above conditions.

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The advanced search also provides the functionality to tailor your specific search even further. You can select whether you want search results to include or exclude documents that are marked as official OSW Policy. Additionally, you can set your search to bring back only a specific document type

which include "memo/letter," "question and answer," and "publication" types. Finally, if you fill in more than one search field/criteria, you can perform a refined search by setting the dropdown to "All," this search will only find documents that meet all of your specific criteria. By default the search will look for any documents that meet at least one of your search criteria.

HOW CAN I GET ADDITIONAL HELP FINDING DOCUMENTS CONTAINED IN RCRA ONLINE?

If you want more information on the RCRA program, please visit the Office of Solid Waste "Contact Us" web page at www.epa.gov/epaoswer/osw/comments.htm. This page provides, among others, links to EPA's Regional Offices, State environmental offices and the RCRA Frequently Asked Questions (FAQ) database.

WHERE CAN I DIRECT SUGGESTIONS AND PROBLEMS?

Please direct technical problems, such as functionality or the use of RCRA Online, to the RCRA Online administrators using the RCRA Frequently Asked Questions (FAQ) database, available at

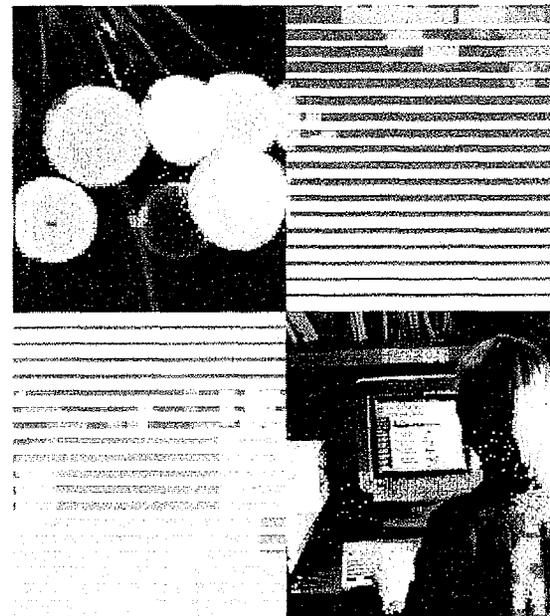
http://waste.eusthelp.com/cgi-bin/waste/cfg.php:enduser/std_alp.php

EPA530-F-08-005
February 2008



United States
Environmental
Protection Agency

RCRA ONLINE A Quick Reference Guide



WHAT IS RCRA ONLINE?

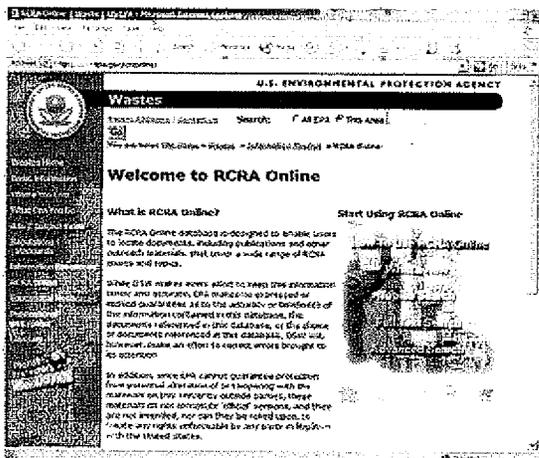
RCRA Online is an electronic database of selected letters, memoranda, questions and answers, publications, and other outreach materials, written by the Environmental Protection Agency's (EPA) Office of Solid Waste (OSW) since 1980. These documents cover the management of non-hazardous, hazardous, and medical waste regulated by the Resource Conservation and Recovery Act (RCRA). Updates occur on a monthly basis.

HOW DO I ACCESS IT?

RCRA Online can be accessed using a minimum of Netscape Navigator 4.x or Microsoft Internet Explorer 4.x. Simply run the browser and connect to RCRA Online directly by entering the URL:

<http://www.epa.gov/rcraonline>

From the the Welcome Page, you can navigate to one of the three different search screens to begin your document search. RCRA Online provides users with the capability to view and print the actual text of the documents identified in a search.

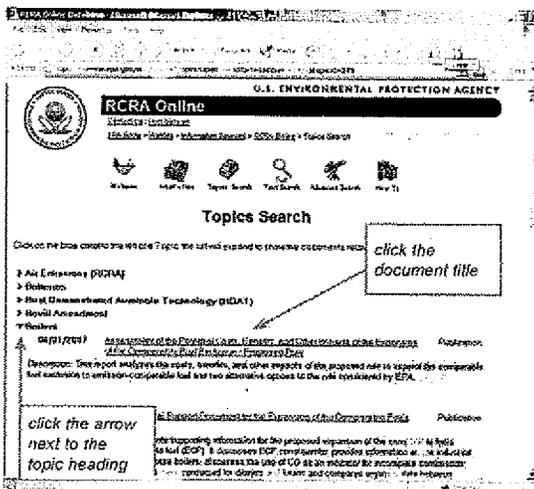


HOW DO I SEARCH TOPICS?

RCRA Online allows users to locate documents though topical, full text, and advanced search functions. Using the topic search function is the simplest way to locate documents in the database.

The topics cover a wide range of RCRA subjects. To search the database by topic, choose the topic search icon on the tool bar.

Click on the blue arrow next to the desired topic. To view detailed information on a particular document, simply click on the document title.



Helpful Hint

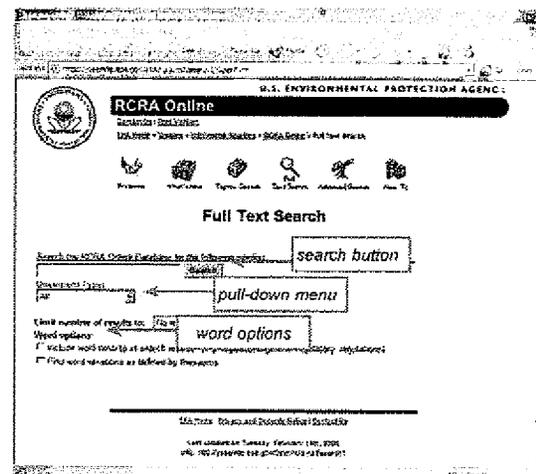
To search for a word using only the first few characters of the word, use the * (asterisk) as a wild card (e.g., if searching for battery or batteries type "batt*").

HOW DO I SEARCH FULL TEXT?

Type the keyword or keywords into the search field, separating each word with a space (e.g., battery lead plate). To search for a string of words in a particular order, or to search for exact phrases, group the words within quotation marks (e.g., "battery lead plate").

You can limit the number of documents in your search by using the pull down menu and choosing the desired number.

The full text search also provides the option to search for word variants (e.g., "battery" will show references to "battery" and "batteries") and for synonyms or related words (e.g., the word "gas" will also show the words "vapor," "fumes," and "helium").



To perform the search, click on the "Search" button adjacent to the keyword field. The database will display a list of all the documents that meet the search parameters. To view detailed information on a particular document, simply click on the document title.