



State of Ohio Environmental Protection Agency

Northeast District Office

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CERTIFIED MAIL

March 30, 2009

Mr. Kenneth Gray
Gray Container, LLC
2800 E. 90th St.
Cleveland, OH 44104

RE: GRAY CONTAINER LLC, CUYAHOGA COUNTY, OHD980903827, NOV

Dear Mr. Gray:

On March 11, 2009, this writer received Clean CEMP Engineering's response (dated March 2, 2009) to Ohio EPA's January 6, 2009, Notice of Violation (NOV) letter. Clean CEMP submitted the aforementioned response on behalf of Gray Container LLC. The following is a summary of the status of previously cited violations:

1. ORC § 3734.02(E)&(F), Unlawful Storage and Disposal of Hazardous Waste:

As previously requested, submit documentation (i.e., manifest) documenting the lawful, off-site disposal of all wastes from location G05 and container F22. Gray Container's response did not include the requested documentation.

Gray Container was requested to submit a closure plan for all areas where hazardous wastes were unlawfully stored and/or disposed. While Gray Container's response included a limited discussion concerning closure activities, it did not include a detailed discussion concerning the following components of a closure plan:

- Description and Maps of the Facility
- Description and Detailed Drawings of the Hazardous Waste Management Units to be Closed
- List of Hazardous Waste
- Schedule for Closure
- Decontamination Efforts
- Management of Air Emissions and Wastewater
- Remediation Standards for Soils and Ground Water
- Soil and Groundwater Sampling and Analysis
- Management of Remediation Waste
- Financial Assurance Requirements
- Personnel Health and Safety

Ohio EPA reiterates that in accordance with OAC rule 3745-55-10 through 3745-55-20, Gray Container must conduct closure activities for all areas where hazardous wastes were unlawfully stored and/or disposed. Closure activities will entail the following: removing and disposing of all waste and residues, removing or decontaminating contaminated equipment and structures, remediating contaminated soils and groundwater if necessary, and managing all wastes generated from these activities in accordance with the hazardous waste laws and rules. You must submit a closure plan which ensures that the closure performance standards set forth in OAC rule 3745-55-11 are met. The closure performance standards require you to remove and remediate contamination in these areas to prevent it from posing a risk to human health and the environment. The closure plan should be prepared in accordance with Ohio EPA's Closure Plan Review Guidance (CPRG) for RCRA Facilities. The CPRG may be found on Ohio EPA's website at: <http://www.epa.state.oh.us/dhwm/cprg.html>. Additionally, please find enclosed as Attachment 1, the following checklists which may assist you in the preparation of a closure plan:

- Container Storage Area and Non-Traditional Units
- Tank Storage Area
- Data Collection and Analysis
- Groundwater Monitoring
- Risk Assessment

Gray Container must comply with the closure cost estimate, financial assurance and liability requirements found in OAC rules 3745-55-40 to 3745-55-51.

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

With respect to empty containers, Gray Container is advised that OAC rule 3745-51-07(B)(1) only applies to containers which held hazardous wastes other than compressed gases or acute hazardous wastes. The rule states that an empty container is one from which all wastes have been removed using practices commonly employed to remove materials from that type of container (e.g., pouring, pumping, aspirating), and that no more than one inch of residue remains on the bottom of the container or inner liner. As such, if the container has less than one inch yet may be further emptied by pouring, the container is not considered empty. Please see Attachment 2 which includes relevant information concerning OAC rule 3745-51-07 (Federal equivalent 40 CFR 261.7). Gray Container's acceptance procedures must be modified to ensure compliance with OAC rule 3745-51-07(B)(1), discuss containers which formerly contained acute hazardous wastes and identify how containers will be rejected. Please be aware that containers not complying with OAC rule 3745-51-07 must be immediately rejected and lawfully shipped off-site.

2. General Waste Analysis, OAC rule 3745-54-13 and OAC rule 3745-52-11, Waste Evaluation:

You were requested to conduct an inspection of your facility to identify any container or tank of waste that is present. The inspection findings were to be reported to DHWM. Based upon Gray Container's response, it does not appear that the facility-wide inspection was conducted.

Ohio EPA reiterates that Gray Container must evaluate the contents of all containers (locations F01-F22), as well as any newly identified wastes. To assist you, please find enclosed under Attachment 3, a copy of Ohio EPA's inventory of containers found at locations F01-F22. Submit the following information for all wastes:

- Waste evaluation results,
- Identify in writing how the contents of the container or tank will be lawfully disposed, and
- Submit documentation (i.e., manifest) documenting the lawful, off-site disposal of the waste.

Be advised that it is your obligation to immediately evaluate and lawfully dispose of all wastes at the Gray Container facility.

On February 11, 2009, you were requested to clean-up and containerize wastes found at the Incinerator unit. Identify in writing the actions you took to containerize and clean-up these wastes, as well as the pockets of precipitation that displayed an oil sheen. For all wastes, submit waste evaluation information and disposal documentation.

As an unlawful hazardous waste facility, Gray Container remains in violation of:

3. OAC rule 3745-54-14, Security
4. OAC rule 3745-54-15, General Inspection Requirements
5. OAC rule 3745-54-16, Personnel Training
6. OAC rule 3745-54-17, Requirements for Wastes
7. OAC rules 3745-54-30 to 3745-54-37, Emergency Preparedness & Prevention
8. OAC rule 3745 54 31, Maintenance & Operation
9. OAC rules 3745-54-50 to 3745-54-52, Contingency Plan
10. OAC rules 3745-54-55 & 3745-54-56, Emergency Coordinator & Procedures

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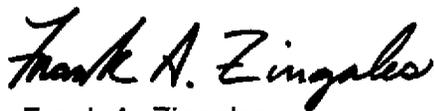
11. OAC rules 3745-55-70 to 3745-55-77, Use and Management of Hazardous Waste Containers
12. OAC rules 3745-55-40 through 3745-55-51, Closure Cost Estimate, Financial Assurance and Liability Requirements

Please be aware that your facility will remain in violation until the appropriate documentation is received by the undersigned. **Within 15 days of receipt of this letter, submit a written response to the undersigned addressing each violation appearing in this letter. Pertinent documentation to address each violation must accompany your response.**

Due to the nature of the aforementioned violations, Ohio EPA has referred this matter to the Ohio Attorney General's Office for consideration of escalated enforcement actions. Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your facility from having to comply with all applicable regulations.

Should you have any questions, please contact me at (330) 963-1108.

Sincerely,



Frank A. Zingales
Environmental Specialist
Division of Hazardous Waste Management

FAZ:ddw

Enclosures

cc: Kelly Smith, DHWM, CO
Daniel Martin, AGO
ec: Nyall McKenna, DHWM, NEDO