



State of Ohio Environmental Protection Agency

Northeast District Office

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CERTIFIED MAIL

September 5, 2007

Kerry P. McNamara, CEO
K.P. McNamara Co.
3972 Hamilton Ave.
Cleveland, OH 44114

RE: K.P. MCNAMARA CO., OHR000108027, CUYAHOGA COUNTY, NOV/PRTC ✓

Dear Mr. McNamara:

On April 4 and April 5, 2007, this writer, representing Ohio EPA, Division of Hazardous Waste Management (DHWM), visited K.P. McNamara Company (KPM) located at 3972 Hamilton Avenue in Cleveland, Ohio to conduct a hazardous waste compliance evaluation inspection (CEI).

On June 26, 2007, I received KPM's response (dated June 18, 2007) to Ohio EPA's May 23, 2007 Notice of Violation (NOV) letter. On July 2, 2007, KPM submitted additional compliance information via electronic mail. On August 1, 2007, I participated in a conference call with Tony Datillo and you concerning your June 18, 2007 response. On August 20, 2007, I notified you of additional violations of the hazardous waste laws which were recently discovered. On August 21, 2007, KPM submitted information concerning decontamination activities associated with the trailer where hazardous waste was unlawfully stored. On August 23, 2007, KPM submitted compliance related information via electronic mail that was discussed during the August 1, 2007 conference call. On August 24, 2007, I informed you of deficiencies in your August 23, 2007 response and requested additional information. On August 29, 2007, KPM submitted its response via electronic mail to the deficiency comments.

The following is the status of the violations:

1. ORC§ 3734.02(E)&(F); Unlawful Storage & Transportation of Hazardous Waste:

As noted in Ohio EPA's May 23, 2007 NOV letter, KPM unlawfully transported, unlawfully established a hazardous waste facility and unlawfully stored hazardous waste.

On June 11, 2007, KPM shipped the hazardous waste that was discovered inside the trailer to a permitted facility. These wastes included: one, 55-gallon drum of ignitable (D001) hazardous waste; two, 55-gallon drums of corrosive (D002) hazardous waste; and two, 55-gallon drums of ignitable (D001), corrosive (D002), toxic (D035) hazardous waste.

On August 21, 2007, KPM submitted information concerning decontamination activities associated with the trailer where the hazardous waste was unlawfully stored.

No further information is requested to address this violation.

2. **Personnel Training, OAC rule 3745-65-16(A)(1-3),(C),&(D)(1-3):**

As noted in Ohio EPA's May 23, 2007 NOV letter, KPM failed to meet the following requirements of this rule:

- A. OAC rule 3745-65-16(A)(1-3): Facility personnel did not complete training that teaches them to perform their duties in a way that ensures compliance with the hazardous waste laws as evidenced through violations one and seven through ten.

KPM was previously requested to demonstrate that procedures have been implemented to evaluate all wastes (i.e., for pH, ignitability and toxicity) and to properly manage them when they are identified as hazardous wastes. During the August 1, 2007 conference call and on August 24, 2007, I requested that KPM modify the SOP for Off-site Waste Shipments to include ignitable/toxic hazardous waste since there have been waste discrepancy issues associated with these types of waste, as well as provide training on the SOP. KPM's current SOP only addresses an evaluation for pH. **This violation will remain unabated until KPM submits the requested documentation and conducts the required training.**

- B. OAC rule 3745-65-16(C): The facility failed to provide annual personnel training to Melanie Schwanek, alternate emergency coordinator. On June 21, 2007, KPM provided training to Ms. Schwanek. **No further information is requested.**

- C. OAC rules 3745-65-16(D)(1-3): The facility failed to maintain the following documents and records at the facility: (1) job titles, as they relate to hazardous waste management, and the name of each employee filling each job; (2) a written job description for each position at the facility, including requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position; and (3) a written description of the type and amount of both introductory and continuing training to be given to each person filling a position.

On August 23 and August 29, 2007 KPM submitted job titles and job descriptions. However, the job descriptions for the positions involving hazardous waste management (Plant Operations, Shipping & Receiving, and Production Supervisor) did not identify the amount of introductory and continued training that will be provided to these employees. Additionally, these individuals must receive training on the facility's contingency plan. On August 24, 2007, I requested that KPM modify the training requirements section of the job descriptions to address this requirement. KPM's current job descriptions must specify the amount of introductory and continued training that will be provided for the training entitled "RCRA waste handling and management." **This violation will remain unabated until KPM submits the requested documentation.**

3. **OAC rule 3745-65-52(D)&(E), Content of Contingency Plan:** KPM failed to maintain a contingency plan that meets the requirements of OAC rule 3745-65-52(D)&(E). On August 23 and August 29, 2007 KPM submitted portions of a revised contingency plan. On August 24, 2007, I requested that KPM revise the contingency plan to specify an alternate emergency coordinator and the location and capabilities of all emergency equipment. KPM's current contingency plan does not specify an alternate emergency coordinator or the location of emergency communication equipment (i.e., phone). To abate this violation, KPM must submit a complete contingency plan that meets all of the requirements of OAC rule 3745-65-52. Please be advised that once the plan is revised it must be distributed to all emergency authorities pursuant to OAC rule 3745-65-53. **This violation will remain unabated until KPM submits the requested documentation.**
4. **OAC rule 3745-65-33, Testing and Maintenance of Emergency Equipment:** This violation was previously abated.
5. **OAC rule 3745-273-14(E); Labeling/marketing Standards for Small Quantity Handlers of Universal Waste:** KPM failed to label/mark three boxes of universal waste lamps with the words required by this rule. On July 2, 2007, KPM submitted photographs which showed that the containers of lamps were labeled in compliance with this rule. **Based upon submitted documentation, this violation has been adequately abated. No further information is requested.**
6. **OAC Rule 3745-273-15(C); Accumulation Time Limits - Standards For Small Quantity Handlers of Universal Waste:** KPM failed to track the length of time that the universal waste lamps were accumulated. On July 2, 2007, KPM submitted photographs which showed that the containers of lamps were dated. **Based upon submitted documentation, this violation has been adequately abated. No further information is requested.**
7. **OAC rule 3745-52-11; Waste Evaluation**
8. **OAC rule 3745-52-20 through OAC rule 3745-52-23; Manifest Use**
9. **OAC rule 3745-52-31 and OAC rule 3745-52-32; Labeling and Marking**
10. **OAC rule 3745-270-07; LDR Requirements**

To abate violations seven through ten, KPM was previously requested to demonstrate that procedures have been implemented to evaluate all wastes (i.e., for pH, ignitability and toxicity) and to properly manage them when they are identified as hazardous wastes. These procedures should be identified in the facility's personnel training program required under OAC rule 3745-65-16 and in response to violation number two. **These violations will remain unabated until KPM submits the requested documentation.**

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On August 20, 2007, KPM was notified of the following violation:

11. **OAC rule 3745-52-41(A)(3)(4)(5); Annual Report:** KPM failed to report all hazardous waste generated and shipped off-site in 2006. Specifically, on January 30, 2006, KPM shipped two, 55-gallon drums of non-hazardous waste off-site to Chemical Solvents, Inc (CSI). After analytical testing by CSI, the waste was found to be hazardous waste. This waste was not reported by KPM on its 2006 Annual Hazardous Waste Report. To abate the violation of OAC rule 3745-52-41, KPM must amend its 2006 Annual Hazardous Waste Report to include the waste shipped to CSI. Please submit the amendment to Ohio EPA-DHWM, Annual Report Coordinator, P.O. Box 1049, Columbus, OH 43216-1049; as well as a copy to my attention.

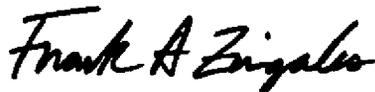
The above violations must be immediately addressed and all of the above requested documentation must be submitted to my attention at the Ohio EPA within 14 days of receipt of this letter.

Please be aware that present or past instances of non-compliance may continue as subjects of pending or future enforcement actions.

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve KPM 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

cc: Natalie Oryshkewych, DHWM, NEDO
Tammy Heffelfinger, DHWM, NEDO
Elissa Miller, Legal, CO