



State of Ohio Environmental Protection Agency

Northeast District Office

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

January 9, 2009

RE: INDUSTRIAL FIRST, INC.
OHR 000 112 946
CUYAHOGA COUNTY
CRO THIRD NOV

Mr. David Stanton
Industrial First, Inc.
16400 Miles Avenue
Cleveland, OH 44128

CERTIFIED MAIL
RETURN RECEIPT

SUBJECT: NO RESPONSE TO NOTICE OF VIOLATION

Dear Mr. Stanton:

Notices of Violations were sent to you dated July 14 and September 30, 2008. No action has been taken or response received to these notices. The Notice of Violation letters are based on facility inspections conducted May 16, July 9, November 7, 2008 and January 4, 2009, of the Industrial First facility at 16400 Miles Road in Cleveland. The Ohio EPA Division of Hazardous Waste Management (DHWM) conducted the inspections to determine your compliance with Ohio's Cessation of Regulated Operations (CRO) rules and Ohio's hazardous waste laws and regulations as found in the Ohio Revised Code and the Ohio Administrative Code ("ORC" and "OAC" respectively).

The inspections identified the accumulation and storage of wastes that you identified during several of the visits as un-useable, out of date material and waste. These wastes appear to include old oil based paints, solvents, oils, tars, acids, chemicals, fuels, lamps and batteries. Several of these wastes are or can be hazardous waste and require proper disposal or recycling. The wastes are generally stored in one, five and fifty-five gallon containers. Several of the containers are leaking, in poor condition or overflowing with storm water. You also had reported that construction storage and supply operations at this facility had been discontinued but that administrative operations were continuing.

On January 5, 2008, an employee notified me that all office operations have now moved to a new location. Within a dumpster by the office, materials consistent with your operations were observed that are potential hazardous wastes. These wastes included quart containers of Tip Top T2 solution and Cold Vulcanizing cement. These containers were removed and placed with the wastes you appear to have abandoned at the facility. The Ohio EPA labeled most of the abandoned containers. Forty-five containers were numbered. All of the small containers in construction storage lockers were not numbered. However, as indicated in the violations below, you must identify in a list whether each of the contents of all containers by number is: a hazardous waste; how the waste characterization was determined; and provide documentation that demonstrates how all items were disposed or recycled.

As you have yet failed to complete and exit the CRO program for regulated substances at your facility, an inspection of your Miles Road office facility, that has now been vacated, is required. Thus, your 90 day CRO submittal must be comprehensive of the office portion of the property.

Under Ohio EPA's CRO program you are required to properly remove, transfer or dispose all regulated materials when those operations are discontinued. All facilities are required to properly characterize and dispose of all hazardous waste. As a large quantity generator you must dispose of hazardous waste within 90 days of its accumulation

Violations

The following violations of Ohio's CRO and hazardous waste laws and regulations have been documented:

- 1) **Drain or remove all regulated substances from each stationary item, ORC 3752.06(A)(4) and OAC 3745-352-20:** All regulated substances must be drained or removed from each stationary vat, tank, electrical transformer, and vessel, and from all piping that is to remain at the facility and a combination of the following must also be done:
 - A. Transfer the regulated substances to another facility owned or operated by the owner or operator.
 - B. Lawfully transfer ownership of the regulated substances to another person through sale or otherwise; or
 - C. Cause the regulated substances to be transported off the premises and managed in compliance with all applicable regulations for disposal.

At the storage building you failed to remove: eleven, 1-gallon containers including apparent hydrochloric acid, spray coolant and solvent; and seven 55-gallon drums of possible roofing tar with water, possible solvents, used/waste oils and unknown fluids. There were also observed ten lead-acid batteries, lamps and a five gallon red fuel container full of a fuel. In or next to construction lockers were: one and five gallon containers of paint, paint waste, solvent and solvent waste from three construction lockers and; eight, 55-gallon drums containing unknown fluids. Six of the drums were full or mostly full. At least one full drum was labeled as "Tip Top solvent". One drum was a quarter full and one drum appeared empty.

To abate this violation, you must submit a list that identifies whether each numbered and unnumbered item is a hazardous or nonhazardous waste. Provide a manifest, receipt or invoice demonstrating that all wastes have been removed and properly disposed.

- 2) **Waste Characterization, OAC 3745-52-11:** Any person who generates a waste must evaluate the waste to determine if the waste is a hazardous waste in accordance with the criteria set forth in OAC Chapter 3745-51.

As of our meeting on July 9, 2008, you have determined that the substances cited above in Violation #1, are items that can no longer be used. These wastes must be properly recycled or disposed.

To abate this violation, you must submit an itemized waste characterization of all wastes accumulated onsite. Provide disposal manifests and receipts to demonstrate that all waste has been properly disposed or recycled in accordance with applicable laws and regulations.

- 3) **OAC 3745-352-20(A)(2):** What are my responsibilities if I am an owner or operator? Not later than ninety days after cessation of regulated operations, you must: Certify to the director that you have complied with the sections of this rule using form EPA 0329. You must include a statement indicating whether any asbestos-containing materials are present at the facility and remove regulated substances and all debris, nonstationary equipment and furnishings, nonstationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, as defined in rule 3745-352-05 of the Ohio Administrative Code.

To abate this violation, you need to submit a completed 90-day Form 0329. The form must indicate whether asbestos-containing materials are present and that all regulated substances have been properly removed and disposed. If any building is to be demolished or renovated you need to file a Notice of Intent with the Cleveland Air Authority. All lamps, ballasts, mercury switches should be removed and properly disposed prior to demolition or renovation.

- 4) **OAC 3745-352-30 (B):** What are the requirements for posting warning signs? You must post warning signs in publicly visible locations about each building or structure and each outdoor location of operation. Minimally, you must post warning signs at all facility access locations. You must have enough warning signs to alert persons that the building, structure or outdoor location contains or is contaminated with regulated substances. These warning signs must prohibit trespassing and state: "The building, structure, or outdoor location of operation contains or is contaminated with regulated substances that may endanger public health or safety if released into the environment." Additionally, each warning sign must comply with the following requirements:

- (1) It must be posted on or near the building, structure or outdoor location that contains or is contaminated with a regulated substance.
- (2) It must include the words "No Smoking" if the warning sign is posted on or near a building, structure or outdoor location that contains ignitable regulated substances.
- (3) All writing on each warning sign must be legible from a distance of at least twenty-five feet; and
- (4) It must be constructed to withstand weathering, and be firmly affixed to secure against removal.

AND,

- 5) **OAC 3745-352-30 (C): How must I maintain security measures?** You must maintain entry barriers and warning signs required in paragraphs (A) and (B) of this rule by doing the following:
- (1) You must inspect entry barriers and warning signs at least every seven days, or as agreed upon in writing by the director, the county sheriff's department, or the local police department;
 - (2) You must record the condition of each entry barrier, security measure, and warning signs in an inspection log. You must show the log to the director if he requests it; and
 - (3) You must repair or replace any damaged, lost, or removed entry barrier, warning signs or other security measure promptly after you discover it is damaged or missing.

Industrial First, Inc. has not posted warning signs or maintained weekly inspection of postings and barriers for security per violations #4 and #5 above. To abate this violation, you must immediately post said warning signs and begin logging weekly inspections. Provide a photograph of your signs and a copy of your weekly inspection log.

- 6) **Unpermitted Storage, Treatment, and Disposal - Ohio Revised Code Section 3734.02 (E)&(F):** Substantial quantities of hazardous waste and other unknown wastes appear abandoned at this Facility creating an unpermitted hazardous waste storage facility. Industrial First, Inc. has accumulated these wastes for more than 180 days without a permit.

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. . ."

As stated in Violation #2 above, OAC 3745-52-11 requires that you properly characterize all waste and dispose accordingly. The Facility has stored hazardous waste without a permit, therefore, you are subject to all applicable general facility standards found in OAC chapters 3734-54 and 55. As the owner or operator of the property where unpermitted hazardous waste activities took place, you are jointly and severally liable for the violations of the state's hazardous waste laws. Additionally, at any time Ohio EPA may assert its right to have you conduct closure or begin Facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

Summary

Please respond to this letter **within 10 days** providing an itemized list characterizing each container of waste along with all documentation requested above. In addition, inspection of the office portion of your facility is now required by the Ohio EPA. Submitted CRO documentation will need to be comprehensive of all facility structures and operations. Be aware that your Facility is being considered for escalated enforcement.

During the July inspection you were provided guidance documentation that included waste characterization, container management, universal waste, used oil and disposal and recycling companies. This and additional information was provided by email. Should you have any questions or require additional information, please contact me at (330) 963-1146 or at ron.shadrach@epa.state.oh.us.

Sincerely,



Ronald J. Shadrach
District Representative
Division of Hazardous Waste Management

RJS:ddw

ec: Frank Popotnik, DHWM, NEDO
Harry Sarvis, DHWM, CO, Enforcement

cc: Cuyahoga County LEPC
Cleveland Fire Department
Ralph McGinnis, DHWM, 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.

