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State of Ohio Environmental Protection Agency

STREET ADDRESS:

MAILING ADDRESS:

Lazarus Government Center
50 W. Town St., Suite 700
Columbus, Ohio 43215

TELE: (614) 644-3020 FAX: (614) 644-3184
www.epa.state.oh.us

P.O. Box 1049
Columbus, OH 43216-1049

February 13, 2009

LESLIA L LEMASTER
DAYTON POWER AND LIGHT JM STUART STATION
1065 WOODMAN DR
DAYTON, OH 45432

Re: **Second Notice of Violation of the 2007 Hazardous Waste Annual Report Requirement
DAYTON POWER AND LIGHT JM STUART STATION - OHD000721407**

Dear LESLIA L LEMASTER:

On August 6, 2008, I sent a letter to you stating that my review of customer data from Ohio and/or Michigan Treatment, Storage and Disposal Facilities (TSDFs) had revealed that hazardous waste was shipped off-site by DAYTON POWER AND LIGHT JM STUART STATION during the 2007 calendar year. The total amount reported indicates that DAYTON POWER AND LIGHT JM STUART STATION was a large quantity generator in 2007. A printout of the shipment information totaling 38.82 tons was attached to the August 6, 2008 letter. As of today, I still have not received a response to my letter, and DAYTON POWER AND LIGHT JM STUART STATION is still in violation of Rule 3745-52-41 of the Ohio Administrative Code (OAC).

OAC Rule 3745-52-41 requires a generator who ships any hazardous waste off-site to prepare and submit to the Ohio EPA a **Hazardous Waste Annual Report** and to describe and certify efforts that were made to minimize hazardous wastes. These reports are due March 1 of each year and contain information about the activities of the previous calendar year. Only small quantity generators (between 220 and 2200 lb/mo of non-acutely hazardous wastes) and conditionally exempt small quantity generators (less than 220 lb/mo of non-acutely hazardous wastes) are exempt from the Annual Report requirement as described in OAC Rule 3745-52-44.

A large quantity generator is defined as a site which generates in any single month more than 1000 kg (2200 lbs) of non-acute hazardous waste or more than 1 kg (2.2 lb) of acutely hazardous waste. This includes wastes from one-time generation as well as wastes from ongoing production processes. It may take only one month of generating above the threshold quantity to subject a site to the Annual Report requirement. The generator is responsible for obtaining the reporting forms and contacting Ohio EPA with any questions. The reporting forms and instructions can be found on our Web site at: http://www.epa.state.oh.us/dhwm/ann_report.html.

IF DAYTON POWER AND LIGHT JM STUART STATION was in fact a Large Quantity Generator during 2007, DAYTON POWER AND LIGHT JM STUART STATION must

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



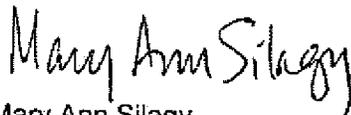
complete and submit to Ohio EPA a 2007 Hazardous Waste Annual Report within 15 days of receipt of this letter to abate the violation of OAC Rule 3745-52-41.

If DAYTON POWER AND LIGHT JM STUART STATION was not a Large Quantity Generator in 2007, documentation must be submitted to this office within 15 days of receipt of this letter. This documentation must show that DAYTON POWER AND LIGHT JM STUART STATION did not generate more than the threshold quantity of hazardous waste in any month during 2007. If you believe that the information supplied by the TSDf is in error, please call me to discuss the discrepancy.

A lack of response on your part may initiate a referral to the Compliance Assurance Section for consideration of enforcement action against DAYTON POWER AND LIGHT JM STUART STATION. Ohio EPA is entitled by law to seek a civil penalty of up to ten thousand dollars (\$10,000) per day for each violation of the state's hazardous waste laws.

Please return the completed forms or other documentation to my attention. A letter that acknowledges receipt of the report will be sent to you after it is processed. I can answer questions concerning the Annual Report at (614) 644-2891. Your prompt attention to this matter is appreciated.

Sincerely,



Mary Ann Silagy
Environmental Specialist 2
Regulatory and Information Services
Division of Hazardous Waste Management
maryann.silagy@epa.state.oh.us

cc: [Central File]
DHWM, SEDO

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.