

**Environmental
Protection Agency**

Teri Strickland, Governor
Lee Fisher, Lt. Governor
Glenn Koneski, Director

Eval. 001
enf. 001

DHR 000159418

April 15, 2010

Re: Notice of Violation(s)
Complaint Investigation Findings
New Horizons Computer Learning Centers
Fairborn, Ohio Facility
Greene County

Certified Mail

Mr. James Cox
General Manager
New Horizons Computer Learning Centers, Inc.
1890 Commerce Center Boulevard
Fairborn, Ohio 56324

Dear Mr. Cox:

On April 6, 2010, Ohio EPA's Division of Hazardous Waste Management (DHWM) conducted a complaint investigation at New Horizons Computer Learning Centers facility located at 1890 Commerce Center Boulevard, Fairborn, Ohio. This investigation was conducted in response to a complaint received by Ohio EPA. The complainant alleged that a dumpster full of cathode ray tubes (CRTs)/computer monitors was picked up by an Allied Waste Services garbage truck. The complainant also alleged that a monitor fell out of the dumpster, missed the garbage truck and was lying on the ground in the vicinity of the dumpster. During the investigation, you represented New Horizons Computer Learning Centers Fairborn, Ohio facility while George Strobel and I represented Ohio EPA. The purpose of the investigation was to assess the validity of the complaint and determine whether violations of Ohio's hazardous waste laws exist at this property. As is our practice, the investigation was unannounced.

An evaluation of the dumpster and the surrounding area did not reveal the existence of any CRTs/computer monitors; however, during the investigation you did indicate that current practice is to throw these CRTs along with fluorescent bulbs in the solid waste trash. While inspecting the dumpster, debris from broken fluorescent lamps(s) was identified on the ground adjacent to the dumpster.

Based on the above findings, Ohio EPA inspected New Horizons Computer Learning Centers Fairborn, Ohio facility to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). We found the following violations of Ohio's hazardous waste laws. In order to correct these violations you must do the following and send me the required information **within 30 days** of the date of this letter:

A. VIOLATIONS

OAC Rule 3745-52-11: Hazardous Waste Determination

OAC Rule 3745-52-11 requires that any person generating a waste must evaluate such wastes to determine if they are characteristic or listed hazardous wastes. New Horizons Computer Learning Centers Fairborn, Ohio facility has failed to evaluate the following wastes to determine if they are characteristic or listed hazardous wastes, as required by this rule:

- 1) CRTs/Computer Monitors – Although no CRTs/computer monitors were identified in the dumpster, you did indicate that on March 31, 2010, nine (9) CRTs were disposed of in the dumpster. The current practice is to throw these CRTs in the solid waste trash. An attempt to recover these CRTs with Allied Waste Services was unsuccessful. You indicated that no waste evaluation was done on these CRTs in order to make the determination that they can be disposed as a solid waste. See the section below on Electronic Waste (E-Waste) for recycling options.
- 2) Waste Fluorescent Bulbs – During the inspection you indicated that currently, fluorescent bulbs are being disposed in the solid waste trash. Bulbs are not collected as Universal Waste at this facility. The bulbs must be evaluated in order to make the determination that they can be disposed as a solid waste. See the section below on Universal Waste for recycling options.

To demonstrate abatement of these violations, New Horizons Computer Learning Centers Fairborn, Ohio facility must evaluate all wastes being generated at this facility to determine if such wastes are characteristic or listed hazardous wastes in accordance with this rule and submit documentation of this evaluation, including an identification of all EPA waste codes applicable to the wastes, to this office for review.

OAC Rule 3745-273-11 (A): Prohibitions – Standards for Small Quantity Handlers of Universal Waste

OAC Rule 3745-273-11 (A) prohibits a small quantity handler of universal waste from disposing of universal waste.

- 3) At the time of the inspection, debris from broken fluorescent lamp(s) was identified on the ground adjacent to a dumpster located on the property. During the inspection, you did indicate that fluorescent lamps are disposed of in the dumpster. New Horizons Computer Learning Centers failed to comply with this rule in that they currently dispose their fluorescent lamps in the general trash.

In order to abate this violation, broken, damaged or leaking lamps must be sent to permitted recycling facilities. Acceptable storage for broken lamps includes a closed 55 gallon steel drum or a closed wax fiberboard drum. New Horizon Computer Learning Centers Fairborn, Ohio facility must immediately clean up and manage properly the fluorescent lamp debris.

B. GENERAL COMMENTS

It is extremely important that New Horizons Computer Learning Centers facility in Fairborn, Ohio, as well as all other New Horizons Computer Learning Centers facilities take steps to properly and correctly manage all generated wastes to ensure the safety of its employees, the public and the environment. Taking the time to plan, establish and implement procedures to manage your wastes correctly will save your business expensive and costly long-term liabilities. Most probably, New Horizons Computer Learning Centers do not generate a significant amount of hazardous waste/universal waste. However, all wastes must be managed properly to protect employees, the public, and the environment.

The level of regulatory requirements you need to comply with depends of the amount of hazardous waste generated in a calendar month. Most likely the New Horizons Computer Learning Centers Fairborn, Ohio facility is a conditionally exempt small quantity generator (CESQG). If you generate no more than 100 kilograms (about 220 pounds) of hazardous waste, and no more than one kilogram (about 2.2 pounds) of acutely hazardous waste in any calendar month and never accumulate more than 1,000 kilograms (2,200 pounds) of hazardous waste of more than one kilogram of acute hazardous waste on your property, you are a CESQG. A CESQG, at a minimum; must evaluate all wastes to determine whether or not they are hazardous; must ensure the hazardous waste is disposed of properly and that it is being shipped to a permitted hazardous waste facility; and must maintain records to show that all hazardous waste was shipped to a permitted facility, such as an invoice or bill of lading.

Be aware that if you generate more than allowed for a CESQG in any one calendar month, more requirements will apply. Note that all the laws regarding hazardous waste management apply to all aspects of your company, and all locations that you conduct business.

Waste Characterization OAC Rule 3745-52-11

As a business owner, it is important to know whether you generate a hazardous waste. First, you must know when a material becomes a waste. Generally, a waste is any discarded material that is not excluded by rule or other legal mechanisms. If you have a material that you can no longer use, it is probably a waste. Second, if you produce a waste and it is hazardous, you are a hazardous waste generator and must comply with

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applicable Ohio hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code and Chapter 3745 of the Ohio Administrative Code. I would encourage you to consult the attached document entitled, "Identifying Your Hazardous Waste," November 2006. This document provides an overview of rules for hazardous waste identification. You are responsible for any hazardous waste from "cradle to grave." This means that you will be held responsible for cleanup or pursued in an enforcement action if your hazardous waste is mismanaged by another company, even after it leaves your property. Therefore, it is very important for you to select a qualified recycler or treatment, storage and disposal (TSD) facility to accept your company's hazardous waste. Any facility in Ohio that accepts hazardous waste for treatment, storage or disposal must have an Ohio EPA permit for these activities. The permit outlines the operating conditions and recordkeeping procedures that must be followed to ensure that wastes will be handled properly. Included with this letter is a list of Ohio Commercial Facilities Accepting Hazardous Waste.

Generator Requirements OAC Rule 3745-52

Many hazardous waste generator requirements can be found in the guidance documents with this letter. This letter will not list all requirements. Further rules can be found on our website at: <http://www.epa.state.oh.us/dhwm>. Some requirements include; ensuring that the containers of hazardous waste remain closed except when adding waste; you must clearly label all containers that contain hazardous waste with the words "hazardous waste," and you must ensure that the containers are stored safely to protect persons and the environment.

Empty Container Management

Empty or near empty containers that held either non-hazardous and hazardous waste must be managed properly. Wastes and spills cannot be dumped onto the ground or allowed to leak out of the building onto the ground. Rinsing of containers into the environment is not allowable. Contact your disposal company to ensure that empty and nearly empty containers are managed safely and properly. Containers cannot be left outside to fill with rain and cause overflowing or rusting. I would also suggest you contact your solid waste refuse company to determine what can and cannot be thrown into the regular trash.

Health & Safety

Be reminded that employers are required to maintain material safety data sheets (MSDS) of every hazardous material on site and be readily available to all employees at all times. You may wish to consult with the chemical manufacturer or your distributor to determine applicable requirements for employee safety. MSDS may help you determine which wastes are hazardous as well.

Training

One of the most important aspects of running a business and managing wastes is to train employees of the proper use of materials, and management of wastes. Training should be conducted for new employees and routinely conducted as reminders for all employees. Training may be formal or may consist of simple informal talks. Facilities that generate more than 1,000 kg (2,200 pounds) of hazardous waste per month are required to have a formal written training program and to identify all employees that manage hazardous waste, and to provide formal and on the job training that is documented. Although, your company may not generate this much waste to meet this condition, the more information you provide to your employees on managing the waste properly, the more efficient and accurate your methods will be and will help to ensure the safety of your employees.

Record Keeping Requirements OAC Rule 3745-52-40

No receipts or records were on site at the time of my investigation regarding waste determination or disposal. As a reminder, there are legal requirements for record keeping as noted above. Additionally, not only is it important to keep records on file, it is critical that the files are readily available. The more knowledge you have of the waste your facility generates, and the more information that you keep neatly filed and updated will help ensure the success of New Horizons Computer Learning Centers Fairborn, Ohio facility.

Universal Waste OAC Chapter 3745-273

During the April 6, 2010 investigation, debris from broken fluorescent lamp(s) was identified on the ground adjacent a dumpster located on the property. During the inspection, you did indicate that fluorescent lamps are disposed of in the dumpster. All waste, including waste lamps, must be managed properly. Universal Wastes, such as fluorescent lamps, batteries, mercury-containing thermostats, and pesticides, are specific hazardous waste streams that a generator can choose to manage in an alternative manner in place of more complex hazardous waste requirements. Universal Wastes are generated by numerous businesses, typically in small quantities. The Universal Waste Rules are intended to promote recycling as well as proper disposal by easing certain regulatory requirements. Do not simply throw florescent bulbs in the trash. Be reminded that even if a company promotes a bulb as being "green" or "environmentally friendly," the bulb may be hazardous. See the enclosed Ohio EPA Guidance documents regarding Universal Waste:

- "Universal Waste," December 2004.
- "Universal Waste Rules for Handlers of Lamps," June 2005.
- "Fluorescent Lamps: What Should You Know," January 2007.

You must manage your waste lamps either under the universal waste rules or waste lamps must be managed as a hazardous waste under the applicable regulations if the waste exhibits any hazardous waste characteristic. Non-hazardous lamps also can be managed as universal wastes, although the universal waste compliance standards are not required. For more information on how to properly manage hazardous waste lamps, see Ohio's universal waste rules:

<http://www.epa.state.oh.us/dhwm/universalwaste.aspx>.

Electronic Waste (E-Waste)

During the April 6, 2010 investigation, you indicated that New Horizons Computer Learning Centers is planning to replace its remaining 17 CRTs with new flat screen monitors. When your business recycles electronic equipment properly (including donating it for reuse), it is not a waste. Therefore, it is not regulated under Ohio's hazardous waste laws. However, if you have electronic equipment or components such as CRTs that can no longer be used or recycled and you want to dispose of them, they are considered wastes. Wastes must be evaluated to determine if they are hazardous before you dispose of them. Studies on various electronic devices have shown them to be hazardous for the toxicity characteristic for lead (*Environmental Science & Technology*, 2000, Volume 34, Issue 20, pp 4376-4381). All hazardous waste destined for disposal must be sent to a permitted hazardous waste facility and cannot be disposed of in a dumpster or a solid waste landfill. New Horizons Computer Learning Centers should be aware that disposal of hazardous waste in a trash dumpster is illegal and could result in Ohio EPA citing additional violations. Furthermore, a finding of illegal disposal could subject New Horizons Computer Learning Centers to escalated enforcement.

On April 7, 2010 you provided Ohio EPA via email a new "PC Disposal Policy." This policy establishes procedures for disposal and transfer of computer equipment. The policy encourages that all computers be donated to Goodwill or disposed of in accordance with Ohio EPA regulations. Ohio EPA encourages you to donate any CRTs or other electronic equipment for reuse as the environmentally preferred alternative. If equipment cannot be used, another good option is sending equipment to a reputable recycler. For more information, see Ohio EPA's guidance, "Management of Electronic Waste from Businesses," August 2004. A copy of this guidance is included with this letter. Additional information regarding computer and electronics waste reduction and recycling can be found through this link:

<http://www.epa.state.oh.us/ocapp/p2/recyc/comprc.aspx>.

C. SUMMARY

In order to abate the above violations, please respond **within 30 days** from the date of this letter with the requested information. It is important that you immediately implement practices (i.e. PC Disposal Policy) to make certain that you comply with the laws and

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rules of hazardous waste management. Remember that you want to maintain records to show that you are complying with the rules. Please be reminded that all New Horizons Computer Learning Centers shall engage in best management practices to minimize long-term liability of the operation due to damage that may occur to staff, public, and the environment. Employee health and safety requirements related to this process must be established and maintained.

Ohio EPA has an online Generator Handbook with more detailed information and links at http://www.epa.state.oh.us/dhwm/pdf/gen_handbook.pdf. Should you have any questions, please feel free to call me at (937) 285-6456. You can find copy of the rules and other information on the division's web page at <http://epa.state.oh.us/dhwm>.

Sincerely,



Jeffery H. Stark
District Representative
Division of Hazardous Waste Management

Enclosures: "Management of Electronic Waste from Businesses," August 2004
"Universal Waste," December 2004
"Universal Waste Rules for Handlers of Lamps," June 2005
"Identifying Your Hazardous Waste," November 2006
"Fluorescent Lamps: What Should you Know," January 2007
"Computer, Fluorescent Lamp and Ballast Recyclers," March 2010
List of Ohio Commercial Facilities Accepting Hazardous Waste

cc: **New Horizons Computer Learning Centers, Inc.**

Mark Miller, President and Chief Executive Officer
David Warnock, Chairman of the Board
Charles Mallon, Executive Vice President, Chief Financial Officer
Howard Mark, Senior Vice President, Chief Information Officer
Timothy Kleczka, Senior Vice President, Operations
Heidi Rose, Senior Vice President, Marketing
Gregory Marsella, Vice President, General Counsel
Darius Shey, Group Vice President, International
Ron Nall, Group Vice President, Americas
Shelley Morris, Group Vice President, Strategic Relations

cc: Debbie Leopold, Director, Greene
County Combined Health District

Don Baer, Allied Waste Services

SWDO-DHWM/SWDO File

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.

JHS\bp