



Environmental
Protection Agency

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Re: Henry County
Henry County Landfill
Notice of Violation (Non-HPV)

April 18, 2011

CERTIFIED MAIL

Mr. Thomas H. VonDeylen, President
Henry County Commissioners
Henry County Office Complex
1853 Oakwood Avenue
Napoleon, Ohio 43545

Dear Mr. VonDeylen:

This letter shall serve as a follow-up to the site visit on March 11, 2011, at the above referenced facility by this writer. The purpose of this visit was to determine the compliance status of all air contaminant sources located at the facility. Based on our discussions during the visit, my findings are as follows:

1. The Henry County Landfill is a sanitary landfill for municipal solid waste, residual waste, asbestos material, and construction and demolition debris. The facility began operation in 1967 and it is estimated that the current remaining life of the facility is approximately 18 months. The facility has previously applied for, and obtained, appropriate permitting through the Ohio Environmental Protection Agency, Division of Solid and Infectious Waste Management (DSIWM) to address the landfill activity, but to this date, no permitting activity has taken place with the Division of Air Pollution Control (DAPC). Failure to apply for a Permit to Operate (PTO) for an air contaminant source, that is not a new source, as defined in Ohio Administrative Code (OAC) rule 3745-31-01(UUU), is a violation of OAC rule 3745-35-02 (rescinded June 30, 2008) and Ohio Revised Code (ORC) Section 3704.05.

Emissions activities of concern that would require permitting from DAPC are facility roadways (paved and unpaved) and any landfill operations. Examples of processes that are encompassed within landfill operations may consist of, but are not limited to, truck loading/unloading, truck transport, bulldozing/compacting, soil removal, waste dumping, storage piles, and wind erosion from exposed areas.

In addition, as with DSIWM, the facility is required to obtain a Permit to Install (PTI) modification from DAPC to address any modification, as defined in OAC rule 3745-31-01(QQQ), due to a change in operations that would result in an increase of emissions. According to DSIWM, the landfill had an Authorized Maximum Daily Waste Receipt (AMDWR) of 133 tons in March 1988. The AMDWR increased to 200 tons in October 1988 and was memorialized in a Director's Final Finding's and Order's, issued February 16, 1989. Modifying an air contaminant source, after January 1, 1974 and prior to obtaining a PTI modification from DAPC, is a violation of OAC rule 3745-31-02 and ORC Section 3704.05.

The company is required to submit a complete Permit to Install and Operate (PTIO) application for the facility roadways and landfill operations (separately) in the response to this letter.

2. Based on information provided by DSIWM, the facility was issued a permit from DSIWM to allow for a vertical expansion as recently as April 27, 1995. Due to this expansion, the facility is subject to the requirements of 40 Code of Federal Regulations (CFR) Part 60, Subpart WWW – Standards of Performance for Municipal Solid Waste Landfills. Please note, applicability of this rule is dependent upon whether or not a modification, as defined in 40 CFR Part 60.751, has taken place on or after May 30, 1991.

The specific standards, monitoring, recordkeeping, and reporting requirements of Subpart WWW are dependent upon the design capacity, as defined in 40 CFR Part 60.751, of the facility. Once again, based on information provided by DSIWM, the current design capacity of this facility is approximately 1.5 million cubic yards. Failure to submit the initial design capacity report by the date required is a violation of the requirements of 40 CFR Part 60.752(a), 40 CFR Part 60.7, and ORC Section 3704.05.

In the response to this letter, the facility is required to clearly indicate the date of the most recent modification and the design capacity of the facility, along with an initial design capacity report, as required by Subpart WWW.

3. This facility currently accepts, or has accepted, a waste stream that includes asbestos material. However, it is uncertain whether or not the facility has accepted any asbestos-containing waste materials, as defined in 40 CFR Part 61.141.

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In order to determine applicability of 40 CFR Part 61, Subpart M – National Emission Standard for Asbestos, the facility is required to clearly indicate if it has accepted any asbestos-containing waste materials in the response to this letter. If necessary, supporting information shall also be included.

4. This facility currently provides a tire shredding service which requires the operation of a tire shredder. In this process, water is used as a lubricant and considered to be an integral part of the shredding operation, while also controlling fugitive particulate emissions at the same time. However, the capacity and what is used to provide power (i.e. diesel engine) to this shredder was not discussed. The facility is required to submit emission calculations along with the appropriate Emission Activity Category (EAC) forms, in lieu of a complete PTIO application, if the emissions from the tire shredder and, if necessary, associated engine will qualify for the "de minimis" permit exemption outlined in OAC rule 3745-15-05.
5. Facilities that operate one or more emissions units subject to either OAC rule 3745-31 or OAC rule 3745-35 are required to pay air emissions fees based on actual annual emissions. The fee is required by OAC rule 3745-78 and ORC Section 3745.11(D) and is billed retroactively every two years. The facility is also found in violation of not having complied with this requirement.

The Non-Title V program requires facilities to pay the fee based on facility-wide estimated actual annual emissions of particulate matter, organic compounds, nitrogen oxides, and sulfur dioxide. The Non-Title V fee program is designed to encompass all permitted facilities in Ohio that do not fall under the requirements of the Title V permitting program. Since the facility has not submitted any applications for operating or prior to modifying the emissions units, it would not have been registered as a Non-Title V facility.

This office is requesting that the company submit the information detailed above to the attention of Jennifer Jolliff at the Division of Air Pollution Control, Northwest District Office, by no later than May 27, 2011.

Please be advised that the submission of information to respond to this letter does not constitute waiver of the Ohio EPA's authority to seek civil penalties pursuant to Ohio Revised Code Section 3704.06. The Ohio EPA will make a decision whether to pursue such penalties regarding this matter at a later date. I would like to thank Mike Imbrock for his assistance and courtesy during the visit.

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If you have any questions or concerns about this letter, please feel free to contact Jennifer Jolliff at (419) 373-4112, or electronically at jennifer.jolliff@epa.state.oh.us.

Sincerely,



Brian Riedmaier
Division of Air Pollution Control

/lr

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William MacDowell, US EPA-Region V
Mike Imbrock, Henry County Landfill
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