



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

December 21, 2012

CERTIFIED MAIL

Scott Mackey
Cuyahoga Materials Company
P.O. Box 658
Mentor, OH 44061

RE: CUYAHOGA MATERIALS COMPANY, 2777 ROCKEFELLER AVE., CLEVELAND, OHIO, OHR00111021, NOTICE OF VIOLATION

Dear Mr. Mackey:

It is Ohio EPA's understanding that on or about October 7, 2008, Cuyahoga Materials Company, (Cuyahoga Materials) purchased the property known as permanent parcel number 122-27-012 in Cuyahoga County, Ohio (hereinafter "Facility"), formally owned by Research Oil Company and formally operated by Pure Tech Systems, Inc. (Pure Tech). In a Notice of Violation dated April 15, 2002, Pure Tech was cited for violations of Ohio Revised Code (ORC) Section 3734.02 (E) and (F), for establishing and operating a hazardous waste storage and disposal facility without a permit. Due to this, Pure Tech was subject to all general facility standards found in OAC Chapters 3745-54 and 3745-55. In order to abate the above violation of ORC Section 3734.02 (E) and (F), Pure Tech was required to complete closure for all areas where hazardous waste was illegally stored and/or disposed. The sale of the Facility to Cuyahoga Materials does not alleviate the closure requirements, and Cuyahoga Materials' purchase of the Facility has caused Cuyahoga Materials, at a minimum, to become an owner of a hazardous waste facility in violation of ORC Section 3734.02(E) and (F).

As a result of Cuyahoga Materials' ownership of an unpermitted hazardous waste facility, Cuyahoga Materials is required to have a hazardous waste facility installation and operation permit and is subject to all general facility standards found in OAC Chapters 3745-54 and 3745-55, including but not limited to, closure in accordance with OAC rules 3745-55-11 through 3745-55-20, the financial assurance for closure requirements contained in OAC rules 3745-55-42 through 3745-55-51 and corrective action for waste management units in accordance with OAC rule 3745-54-101. Cuyahoga Materials will continue to be in violation of ORC Section 3734.02 (E) & (F) until satisfaction of all closure and post-closure obligations.

Since Cuyahoga Materials has violated ORC Section 3734.02(E) and (F) and is subject to all applicable general facility standards found in OAC Chapters 3745-54 and 3745-55, at any time, Ohio EPA may assert its right to have Cuyahoga Materials begin facility-wide cleanup pursuant to Corrective Action process under Ohio law.

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On December 12, 2012, I met with you at the Facility and informed you of the closure requirements concerning permanent parcel number 122-27-012. In addition, we toured the Facility. During our tour of the building on the northwestern section of the Facility, I observed three, 55-gallon containers; three tanks and multiple bags containing a white material. I observed these items while standing at an overhead door leading into the building. The building is unsecured and accessible to trespassers. Cuyahoga Materials must characterize the contents of the containers, tanks and bags to determine if the contents are a hazardous waste using the procedure found in OAC rule 3745-52-11.

In addition, during our tour of the northwestern section of the Facility, I observed an oil/water separator unit. The unit appeared to contain oil as evidenced by the presence of black liquid and an oily sheen on the water in the unit. Subsequent to my December 12, 2012 inspection, I was advised by Ohio EPA, Division of Surface Water (DSW) staff that the oil/water separator unit discharges to Kingsbury Run which leads to the Cuyahoga River. Any discharge to waters of the State is subject to regulation under ORC Section 6111. This matter has been referred to Ohio EPA, DSW for further consideration.

Should you wish to conduct a file review concerning the Facility, you may contact Nicole Patella at (330) 963-1142.

I recommend you contact me to discuss a path forward concerning the Facility. Please notify me within the next fifteen (15) calendar days to arrange a meeting. I may be reached by phone at (330) 963-1108 or via e-mail at frank.zingales@epa.ohio.gov

If you have any questions, please contact me.

Sincerely,



Frank A. Zingales
Environmental Specialist
Division of Materials and Waste Management

FAZ:cl

ec: Ed Lim, DERR, CO
Marlene Kinney, DMWM, NEDO
John Palmer, DERR, NEDO
Frank Popotnik, DMWM, NEDO
Natalie Oryshkewych, DMWM, NEDO
Erm Gomes, DSW, NEDO
Dan Bogoevski, DSW, NEDO

cc: Brian Ball, AGO
Mitch Mathews, DMWM, CO