



State of Ohio Environmental Protection Agency

Northwest District Office

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

August 30, 2007

Mr. Kenneth Humphrey, Environmental Director
Envirosafe Services of Ohio, Inc.
876 Otter Creek Road
Oregon, Ohio 43616-1200

**Subject: Notice of Violation
ESOI Otter Creek Road Facility
OHD 045 243 706
RCRA Hazardous Waste
Lucas County**

Dear Mr. Humphrey:

On June 29, 2007, Envirosafe Services of Ohio, Inc. (ESOI) verbally notified Ohio EPA of an instance of noncompliance with the facility's Ohio Hazardous Waste Facility Installation and Operation Permit Number 03-48-0092. On July 5, 2007, Michael Terpinski and I met with you at the Ohio EPA Northwest District Office to discuss ESOI's noncompliance. After this meeting, in a letter dated July 9, 2007, ESOI submitted to Ohio EPA a written report of noncompliance in accordance with the record keeping requirements of Permit Condition A.22.

On June 29, July 5, and July 9, 2007, ESOI reported that the facility was unable to retrieve either written and/or electronic records of inspections of the secondary containment sumps located in and around the stabilization/containment building (SCB) for parts of calendar years 2005, 2006 and 2007. ESOI believes a former employee did not remove liquids from the secondary containment sumps in and around the SCB on a weekly basis as required by Permit Condition F.6(a). This conclusion is based on a dramatic increase in the amount of liquids removed from the sumps after the employee was removed from his position with ESOI on or around the first week of April 2007.

After consideration of the information provided by ESOI, Ohio EPA has determined that ESOI is in violation of several permit conditions, the Ohio Revised Code (ORC) and Ohio Administrative Code (OAC). ESOI must submit to Ohio EPA the information listed at the end of this letter within 15 days of receipt of this letter.

ESOI is in violation of the following:

1. Permit Condition A.22 and ORC Section 3734.11(B)

Permit Condition A.22 requires ESOI to report to the director instances of noncompliance not provided for in Permit Conditions A.19 and A.20 within 30 days of the time at which the Permittee is aware of such noncompliance. Such reports must contain all information set forth within Permit Condition A.20.

ORC Section 3734.11(B) states that no person who holds a permit or license issued under this chapter shall violate any of the terms and conditions of the permit or license.

ESOI failed to report either the exceedance of the leakage rates in the "Response Action Plan for the Containment Building" (RAP) as found in Appendix D.22 of ESOI's approved permit application or the presumed previous failure to remove liquids from the sumps within 30 days of the time at which ESOI became aware of such noncompliance. ESOI first became aware of the elevated liquid levels in the secondary containment sumps located on or around the SCB the first week of April 2007. The liquid levels verbally reported to Ohio EPA on June 29, 2007, were well above both the indicator leakage rates (ILR) and action leakage rates (ALR) found in Table 1 of the RAP found in Section D.12, page 12 of ESOI's permit application. In addition, the July 9, 2007 report of noncompliance submitted by ESOI failed to contain all of the information set forth within Permit Condition A.20.

2. Permit Condition B.5(g)(vi) and OAC Rules 3745-54-15(A)(1), B(1) & (D)

Permit Condition B.5(g)(vi) requires ESOI to inspect the liquid collection and removal systems and leak detection systems for the presence of liquid and proper function on a weekly basis.

ESOI failed to inspect the liquid collection and removal system in and around the SCB on a weekly basis for parts of calendar years 2005, 2006 and 2007.

OAC Rule 3745-54-15(A)(1) requires an owner or operator to inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to a release of hazardous waste constituents to the environment.

ESOI failed to inspect the liquid collection and removal system in and around the SCB for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to a release of hazardous waste constituents to the environment for parts of calendar years 2005, 2006 and 2007.

OAC Rule 3745-54-15(B)(1) requires the owner or operator to follow a written schedule for inspecting operating and structural equipment (such as sump pumps) that are important to preventing, detecting, or responding to environmental hazards.

ESOI failed to inspect the liquid collection and removal system in and around the SCB as specified in ESOI's approved permit application for parts of calendar years 2005, 2006 and 2007.

OAC Rule 3745-54-15(D) requires the owner or operator to record inspections in an inspection log or summary and to maintain these logs for a period of at least three years.

ESOI failed to record inspections and/or maintain inspection logs of the liquid collection and removal system in and around the SCB for parts of calendar years 2005, 2006 and 2007.

3. Permit Condition B.22(f) and OAC Rule 3745-54-73(B)(6)

Permit Condition B.22(f) requires ESOI to notify the director if the response action plan (RAP) requires implementation.

ESOI failed to implement the SCB RAP and to notify the director that the SCB RAP required implementation. ESOI first became aware of the elevated liquid levels in the secondary containment sumps located on or around the SCB the first week of April 2007. The liquid levels verbally reported to Ohio EPA on June 29, 2007, were well above both the indicator leakage rates (ILR) and action leakage rates (ALR) found in Table 1 of the RAP found in Section D.12, page 12 of ESOI's permit application. On June 29, 2007; July 5, 2007; and July 9, 2007, ESOI reported that the ILR and ALR recorded for the months of April, May and parts of June 2007 were exceeded. As of the date of this letter, ESOI has not implemented the SCB RAP nor has the facility notified the director that the SCB RAP requires implementation.

4. Permit Condition B.22(g) and OAC Rule 3745-54-73(B)(6)

Permit Condition B.22(g) requires ESOI to record and maintain as part of the facility operating record the volume of liquids removed from each sump.

ESOI failed to record and maintain as part of the facility operating record the volume of liquids removed from each sump for parts of calendar years 2005, 2006 and 2007.

5. Permit Condition F.5(e) and OAC Rule 3745-205-101(B)(2)

Permit Condition F.5(e) requires ESOI to maintain and operate the primary liquid collection and removal system to collect and remove liquids that may be potentially contaminated from the SCB.

OAC Rule 3745-205-101(B)(2)(b) requires ESOI to collect and remove liquids from the liquid collection and removal system to minimize hydraulic head on the containment system.

ESOI failed to maintain and operate the primary liquid collection and removal system to collect and remove liquids that may be potentially contaminated from the SCB for parts of calendar years 2005, 2006 and 2007.

6. Permit Condition F.6(a) and OAC Rule 3745-205-101(C)(4)

Permit Condition F.6(a) and OAC Rule 3745-205-101(C)(4) require ESOI to inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring equipment and leak detection equipment as well as the SCB and the area immediately surrounding the SCB to detect signs of releases of hazardous waste.

ESOI failed to inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring equipment and leak detection equipment in and around the SCB to detect signs of releases of hazardous waste for parts of calendar years 2005, 2006 and 2007.

7. Permit Condition F.6(b) and OAC Rule 3745-205-101(C)(3)

Permit Condition F.6(b) requires ESOI to follow the approved RAP as found in Appendix D.22 of the permit application.

Section 5.2 of the RAP located in Section D.22 of ESOI's permit application requires ESOI to determine the amount of liquid accumulated in each secondary containment sump in and around the SCB on a weekly basis. The RAP states that the liquid level or volume will be recorded, and if pumpable amounts of liquid are noted, the liquid will be removed from the sump and managed as liquid potentially contaminated with hazardous waste.

Section 5.3 of the RAP states that ESOI will take the specific actions detailed in Sections 6.1 and 6.2 if an ILR or ALR are exceeded.

Section 6.1 of the RAP requires ESOI to take the following actions whenever an ILR is exceeded:

- Record the discovery in the facility operating record;
- Increase the pumping and measurement frequency of the affected sumps from weekly to working day;
- Collect a sample of the liquid in the affected sumps within seven calendar days of the determination of the exceedance of the ILR and analyze the sample for RCRA metals.
- Submit the results of the analysis to the U.S. EPA and Ohio EPA within seven days of the receipt of the results by ESOI;
- Notify the U.S. EPA and Ohio EPA within seven calendar days of the determination of the exceedance of the ILR;

- Increase pumping and measurement frequency until the liquid accumulation rate has returned to a level below the ILR or for a maximum of fourteen calendar days. If the liquid accumulation rate remains above the ILR after 14 days, the pumping and measurement frequency of the affected CBS system will continue to be increased from weekly to working-day;
- Submit a written notice to the U.S. EPA and the Ohio EPA if the liquid accumulation rate has returned to levels below the ILR within fourteen calendar days. The notice will inform the Agencies of the return of the liquid volume to levels below the ILR; and
- Submit a written notice to the U.S. EPA and the Ohio EPA if the liquid volume has not returned to a level below the ILR within fourteen calendar days. The written notice must include the steps taken, or to be taken, and a schedule to address the exceedance.

Section 6.2 of the RAP requires ESOI to do the following if it is determined that the ALR was exceeded due to factors external to the actual treatment and storage operations conducted within the SCB:

- Document the external factors which caused the ALR exceedance;
- Notify the U.S. EPA and Ohio EPA within 48 hours of the assumption that external factors are the cause of the exceedance;
- Resume Operations in the affected portion of the SCB;
- Maintain daily pumping and measuring of the SCB secondary containment sumps until the rate of accumulation falls below the ALR;
- Notify the U.S. EPA and Ohio EPA when the accumulation rate falls below the ALR or within 14 days if the accumulation rate has not been reduced to a level below the ALR; and
- Make any necessary repairs.

On June 29, July 5, and July 9, 2007, ESOI reported that the ILR and ALR were exceeded from the first week of April 2007 through the last week of June 2007. During this time, ESOI failed to:

- implement all of the provisions of the SCB RAP;
- increase pumping of the secondary containment sumps from weekly to daily;

- submit an analysis of the liquids removed from the sumps to Ohio EPA within seven days;
- notify the Ohio EPA within seven days of the first exceedance of the ILR;
- notify the Ohio EPA within 14 days of the continued exceedance of the ILR and ALR;
- notify the Ohio EPA within 48 hours of the assumption that external factors caused the exceedance of the ALR; and,
- halt operations in the affected areas of the exceedances.

8. Permit Condition F.7 and OAC Rules 3745-54-15

Permit Condition F.7 requires ESOI to inspect the SCB in accordance with the inspection schedule contained in Section F of the ESOI permit application, Permit Condition B.5(g) and OAC Rule 3745-54-15. This permit condition also requires ESOI to inspect the SCB at least once every seven days in order to detect signs of releases of hazardous waste. The results of the inspections must be recorded in an inspection log along with any remedial action taken.

ESOI failed to inspect or record inspections of the liquid collection system for the SCB for parts of calendar years 2005, 2006 and 2007.

To rectify the above violations, ESOI must do the following:

- submit to Ohio EPA the exact timeframes that ESOI could not retrieve accurate data for the collection of liquids from the secondary containment sumps located in and around the SCB;
- submit to Ohio EPA records of the quantities of liquids removed from the secondary containment sumps located in and around the SCB after April 1, 2007, to the date of this letter;
- submit to Ohio EPA records of how the removed liquids were managed, stored and/or disposed of;
- submit to Ohio EPA a copy of the analysis ESOI obtained from the liquids removed from the secondary containment sumps in and around the SCB;
- submit to Ohio EPA all records for 2005, 2006 and 2007 (to the date of this letter) for inspections of the monitoring and leak detection equipment in and around the SCB;

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- clarify which data is considered suspect and include a complete explanation of why the information is considered suspect;
- submit to Ohio EPA all details ESOI used to make the assumption that external factors caused the exceedance of the ILR and ALR; and
- continue to monitor the amount of liquids accumulated and removed from the secondary containment sumps in and around the SCB. If the ILR or ALR is exceeded, ESOI must implement all of the provisions of the SCB RAP including notification of the Ohio EPA.

ESOI must submit the above information within 15 days of receipt of this letter. If you have any questions, please contact me at 419-373-3056.

Sincerely,



Gary S. Deutschman
Division of Hazardous Waste Management

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pc: Oregon Document Depository
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Mary Gade, USEPA Region 5

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.