



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

Eval 105
Enf. 052

February 8, 2013

**RE: Environmental Enterprises Inc.
Permitted Treatment and Storage Facility
OHD083377010
Hamilton County
Notice of Violation**

CERTIFIED MAIL

Mr. Daniel McCabe
Environmental Enterprises, Inc.
10163 Cincinnati-Dayton Road
Cincinnati, OH 45241

Dear Mr. McCabe:

Ohio EPA Division of Materials and Waste Management (DMWM) conducted a focused Compliance Inspection on January 4, 2013. This inspection was in response to an explosion and fire at Environmental Enterprises, Inc. (EEI). Jeff Smith, George Strobel, and I represented Ohio EPA. Gerald Nocks, Warren Taylor, and you represented EEI.

Ohio EPA conducted the inspection at EEI to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734 of the Ohio Revised Code (ORC), Chapter 3745 of the Ohio Administrative Code and EEI's Ohio hazardous waste facility installation and operation permit issued September 30, 2009. Our inspection consisted of a visual inspection of the areas involved in the incident, a partial review of written documentation and information EEI representatives provided in response to our questions.

EEI stated that on December 28, 2012, an EEI employee used a reciprocating saw to cut open metal casings on waste air pollution control filters containing sodium chlorate (D001) received from AVOX Systems Inc, (AVOX) Lancaster, New York. The use of the saw on the filter casing created a spark. The spark ignited the filter causing an explosion and fire which ignited seven (7) additional filters in close proximity. The explosion and fire injured two (2) employees, one (1) fatally. The procedure used for opening the filters was approved by the shift supervisor which, according to EEI, was not commonly done on prior shipments. In addition, EEI did not have a written procedure for this operation.

On January 10, 2013, Ohio EPA received employee training records requested during the inspection along with a copy of the incident report submitted to Ohio EPA's Director.

Based on the inspection and documentation provided, Ohio EPA-DMWM has determined that EEI has violated the following state hazardous waste regulations and conditions of its Ohio hazardous waste facility installation and operation permit. All violations of EEI's permit are violations of ORC 3734.11(B).

1. **Duty to Comply, Condition A.5 and OAC Rule 3745-50-58(A)** The Permittee must comply with all applicable provisions of ORC Chapter 3734, all applicable Ohio hazardous waste rules, and all terms and conditions of this permit, except to the extent and for the duration that the laws of the state of Ohio authorize such noncompliance. Any permit noncompliance, other than noncompliance authorized by the laws of the State of Ohio, constitutes a violation of ORC Chapter 3734 and is grounds for enforcement action, revocation, modification, denial of a permit renewal application or other appropriate action.

EEI failed to comply with Condition A.5 and OAC Rule 3745-50-58(A) by not complying with all terms and conditions of EEI's permit and by not complying with applicable Sections of EEI's Part B Permit Application.

2. **Duty to Mitigate, Condition A.8 and OAC Rule 3745-50-58(D)** The Permittee must take all reasonable steps to minimize releases to the environment and must carry out such measures as are reasonable to prevent significant adverse impact on human health or the environment resulting from noncompliance with the permit.

EEI failed to comply with Condition A.8 and OAC Rule 3745-50-58(D) when two (2) employees were injured, one (1) fatally, because a spark-proof tool was not used while working on ignitable (D001) waste.

3. **Proper Operation and Maintenance, Condition A.9 and OAC Rule 3745-50-58(E)** The Permittee must, at all times, properly operate and maintain the facility (and related appurtenances) to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance includes effective management practices, adequate funding, adequate operator staffing and training, and where appropriate, adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the terms and conditions of this permit.

EEI failed to comply with Condition A.9 and OAC Rule 3745-50-58(E) when the shift supervisor approved the use of a sparking tool on ignitable (D001) waste.

4. **Design and Operation of Facility, Condition B.1(a) and OAC Rule 3745-54-31** The Permittee must design, construct, maintain and operate the facility to

minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, ground water or surface waters which could threaten human health or the environment.

EEl failed to comply with Condition B.1(a) and OAC Rule 3745-54-31 when an employee did not use a spark proof tool on ignitable (D001) waste.

5. General Waste Analysis Plan, Condition B.3(b) and OAC Rule 375-54-13

The Permittee must follow the procedures described in the waste analysis plan found in Section C of the permit application and the terms and conditions of this permit.

The waste profile provided by EEl during the January 4, 2013 inspection did not match the waste information. Profile number X86194 was created for "PPE contaminated with sodium chlorate." The waste stream associated with the fire and explosion was filters containing sodium chlorate. As stated in EEl's permit application, "A separate profile is required for each waste stream."

EEl failed to comply with Condition B.3(b) and OAC Rule 3745-54-13 when it did not create a separate profile for the filters containing sodium chlorate.

6. General Requirements for Ignitable, Reactive, or Incompatible Wastes, Condition B.7(a) & (c) and OAC Rule 3745-54-17

(a) The Permittee must comply with the requirements of OAC Rule 3745-54-17 and must follow the procedures for handling ignitable, reactive and incompatible waste as set forth in Section D of the permit application. (c) The Permittee must provide, and require the use of, spark-proof tools during all operations involving the handling of all ignitable or reactive waste.

EEl failed to comply with Condition B.7(a) & (c) and OAC Rule 3745-54-17 when a shift supervisor did not provide and require the use of a spark proof tool on ignitable (D001) wastes.

7. Special Container Provisions for Ignitable Waste, Condition C.10(a) & (c) and OAC Rules 3745-54-17

(a) The Permittee must not store ignitable or reactive waste except in accordance with OAC Rules 3745-54-17 and 3745-55-76. (c) The Permittee must take precaution to prevent accidental ignition or reaction of ignitable or reactive waste and shall follow the storage procedures specified in Section F of the permit application.

EEl failed to comply with Condition C.10(a) & (c) and OAC Rule 3745-54-17(a) by approving and allowing an employee to use a non-spark proof tool on ignitable

(D001) wastes which caused an explosion and fire injuring two (2) employees, one (1) fatally.

EEl needs to immediately take the necessary measures to return to compliance with Ohio's hazardous waste laws. Within 14 days of receipt of this letter, EEl is required to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes, but is not limited to, written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to pam.hull@epa.ohio.gov and jeff.smith@epa.ohio.gov.

Ohio EPA is requesting copies of the following information from EEl:

1. Copies of all manifests for shipments from AVOX.
2. Copies of all profiles and ancillary information, along with the most recent annual updates for all AVOX waste streams.
3. Provide a written description of the complete treatment process for the filters, including disposal of filter media, metal casing, and sodium chlorate water.
4. Provide the job title and written description of each position, and written description of the type and amount of training required for each of the following: Brian Alexander; Kyle Duffens; Timothy Fisher; and Zach Henzerling.
5. Provide a complete written description of the training provided on August 2, 2012, titled "General Awareness, Contingency Plan, HAZ COM, BBP." This may include, but is not limited to, slides, handouts, and outlines.
6. List of all employees involved in the completion and approval of profile X86194 and copies of those employees' training records.
7. List of all QA Technicians involved in completing the waste receipt worksheets used during waste acceptance of shipments from AVOX and copies of those employees' training records.
8. Copies of all waste receipt worksheet records and QA data recorded for all incoming shipments from AVOX.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the

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abatement of violations, EEI is requested to submit written correspondence of the steps that will be taken to attain compliance.

The investigation into the December 28, 2012 incident at EEI is ongoing. Ohio EPA will continue to review all pertinent information to determine EEI's compliance with all state hazardous waste regulations and conditions of its Ohio hazardous waste facility installation and operation permit. Due to the nature and extent of the violations, we will be referring EEI to the Division of Materials and Waste Management's Central Office for consideration of escalated enforcement.

Failure to list specific deficiencies in this communication does not relieve EEI from the responsibility of complying with all applicable hazardous waste regulations. This letter does not relieve EEI from liability for any past or present violations of Ohio's hazardous waste laws.

Sincerely,



Pam Hull
District Representative
Division of Materials and Waste Management

PH/tb

ec: George Strobel, SWDO-DMWM
Jeff Smith, SWDO-DMWM
Robyn Winstead, SWDO-DMWM/SWDO Facility File