



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

February 26, 2013

**RE: ROSBY RESOURCE RECYCLING, INC.  
CLASS II COMPOST FACILITY  
CUYAHOGA COUNTY  
NOTICE OF CONTINUED VIOLATION**

Mr. William Rosby  
Rosby Resource Recycling, Inc.  
54 East Schaaf Road  
Brooklyn Heights, Ohio 44131

Dear Mr. Rosby:

On November 6, 2012, Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM) and Division of Surface Water (DSW), Northeast District Office (NEDO) received a response to the October 19, 2012 Notice of Violation (NOV) that was sent to you regarding a September 19, 2012 compliance inspection that was conducted at the Class II Compost Facility located at 54 East Schaaf Road, Brooklyn Heights, Cuyahoga County. The response letter was prepared by Mr. Michael Cyphert on behalf of Rosby Resource Recycling, Inc.

Regarding the disposal of leachate via the Northeast Ohio Regional Sewer District ("NEORS"), please submit a copy of the temporary discharge permit you received from NEORS.

In the response concerning the berms surrounding the material handling area containing undegraded compostable plastics, your letter states that "The regulations for a Class II Composting Facility do not prohibit the use of compost for a berm to contain leachate,..." and "The "plastic" observed within the compost is permitted since this starch-based material is from compostable containers that meet ASTM D6400 and which was processed to increase the exposed surface for composting prior to incorporation into the composting process."

The compost material being used as a berm around the material handling area contains significant amounts of undegraded plastics. Containers used to transport materials to a compost facility must be managed in accordance with Ohio Administrative Code (OAC) Rule 3745-560-210(G), which states that: *"The owner or operator shall properly manage any containers used to transport authorized materials to a composting facility according to the following:*

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*(1) Compostable containers shall be shredded or otherwise processed to increase the exposed surface area for composting prior to incorporation into the composting process.*

*(2) Feedstocks, bulking agents, and additives shall be removed from containers that do not meet the definition of compostable containers prior to incorporation into the composting process. These containers shall not be shredded and shall be managed as solid waste”*

The definition of “compostable container” in OAC Rule 3745-560-02( C)(8) states “... a container composed of materials such as vegetable matter, paper, cardboard, and plastic that meets ASTM D6400 or D6868 as described in rule 3745-500-03 of the Administrative Code, that may display the international biodegradable products institute’s “Compostable Logo,” and that will decompose or degrade at a rate equal to or faster than the material with which it is composted under equivalent conditions.”

Furthermore, OAC Rule 3745-560-02(F)(3) identifies foreign/inert matter as: “inorganic and organic constituents that were not readily decomposed during the composting process including but not limited to plastics, glass, textiles, rubber, leather, metal, ceramics, styrofoam, sharp objects, and painted, laminated, or treated wood.”

While compost produced by and used on property owned by Rosby Resource Recycling is not subject to the distribution requirements of OAC Rule 3745-560-220, placement of solid waste contained in compost onto the ground may constitute open dumping. The undegraded plastics contained in the compost are defined as foreign/inert matter and must be managed as solid waste. Any processing of the compost material that contains the plastics must be conducted within the boundaries of the composting facility. If undegraded plastics remain in the product, the compost should be screened or otherwise processed to remove solid wastes.

Rosby Resource Recycling, Inc. needs to immediately take the necessary measures to return to compliance with Ohio’s environmental laws. Within 14 days of receipt of this letter, Rosby Resource Recycling, Inc. is requested to provide documentation to this office including the steps taken to abate the violations cited in the October 19, 2012 Notice of Violation. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to [clarissa.gereby@epa.state.oh.us](mailto:clarissa.gereby@epa.state.oh.us).

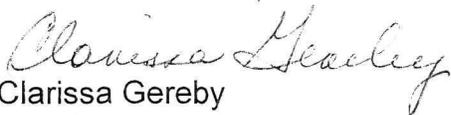
Please be advised that violations cited in the October 19, 2012 Notice of Violation will continue until the violations have been properly abated. Failure to comply with Chapter 3734 (or 3714 for C&DD) of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. If circumstances

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delay the abatement of violations, Rosby Resource Recycling, Inc. is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions regarding this correspondence, please contact Clarissa Gereby at (330) 963-1224.

Sincerely,



Clarissa Gereby  
Environmental Specialist  
Division of Materials and Waste Management

ec: Erm Gomes, DSW, NEDO  
Dan Bogoevski, DSW, NEDO

cc: Dane Tussel, CCBH  
File: [Sowers/COMP/Rosby Class II/COR/18]  
DMWM #4711