



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

February 28, 2013

**JACKSON COUNTY  
MERRILLAT INDUSTRIES  
DMWM/SEDO  
OHD081280539**

Mr. Robert Allen  
Merillat Industries, Inc.  
960 East Main Street  
Jackson, Ohio 45640

Dear Mr. Allen:

Thank you for your February 14, 2013 response to Ohio EPA's January 24, 2013 Notice of Violation letter. The documentation you submitted included photographs and a description of Merillat's revised procedure for management of spent coating line filters, a revised contingency plan, and revised inspection checklists for fire extinguishers and the hazardous waste accumulation building.

My review of this documentation reveals that Merillat has now abated the following previously cited violations discovered during the January 9, 2013 inspection:

***OAC 3745-65-52(A), Content of Contingency Plan.***

However, the Merillat remains in violation of the following law:

- Ohio Revised Code (ORC) § 3734.02(E) and (F), Establishing and Operating a Hazardous Waste Facility:*** (E) No person shall establish or operate a hazardous waste facility without a hazardous waste facility installation and operation permit. (F) No person shall treat, store or dispose of hazardous waste or transport or cause hazardous waste to be transported to any other premises except to or at a hazardous waste permitted facility (TSD). "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, emitting, or placing of any solid wastes or hazardous waste into or on any land or ground or surface water **or into the air.**

Merillat established and operated a hazardous waste disposal facility without a hazardous waste installation and operation permit, in violation of ORC § 3734.02(E) and (F), by disposing of hazardous waste into the air. Merillat air dries coating line filters (D035) in order to reduce the concentration of methyl ethyl ketone in the filters prior to disposing of them as a hazardous waste. During the inspection, a coating line filter was observed "air drying" on a hook in

the paint room above a hazardous waste drum in which it would later be placed. Merillat stated that waste in the filter is allowed to evaporate prior to disposal because if placed in the drum without this procedure, the filters will spontaneously combust when crushed in the waste drum. Note that based on this assessment by Merillat, the filters are also an ignitable (D001) hazardous waste.

Merillat has now taken steps to cease disposal of spent hazardous waste filters via evaporation by immediately placing them, without drying or crushing, into a hazardous waste container. While the fact that they are no longer being air dried is acceptable, Merillat should note that Ohio EPA considers the filters to be a D001 even if not crushed onsite because they may be subject to crushing in a drum at a hazardous waste landfill. This will remain an outstanding violation until Merillat provides a description of how the ignitable filters will be treated or managed so that crushing in a landfill is not a possibility. Note that other companies with similar filters that are ignitable manage them in drums of water prior to disposal (which is considered permissible onsite treatment in a container). In addition, if Merillat has obtained analytical results indicating that the filters they generate are not a characteristic hazardous waste when spent, those should also be submitted.

Please be advised that due to the nature of the violations Ohio EPA may take escalated enforcement action against Merillat. In addition, because Merillat has violated ORC §3734.02(E) and (F), Merillat is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have Merillat begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

## GENERAL COMMENTS

- A. Merillat should note that section 4.13 of their newly revised contingency plan contradicts other newly revised sections of the plan. Section 4.13 states that each time the plan is implemented and a reportable quantity has been released, Ohio EPA will be notified. Merillat should revise this to state that the plan will be implemented in response to a fire, explosion or release, and that EPA immediately notified when there is an emergency situation consisting of imminent or actual harm or hazard to human health and the environment. Please note that the plan should not rely on RQ's as a factor in determining when the plan should be implemented.

You must immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within **15 days** of the date of this letter, you are requested 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 written

**Merillat Industries**

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correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to [donna.goodman@epa.state.oh.us](mailto:donna.goodman@epa.state.oh.us).

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 abatement of violations, you are requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

If you have any questions, please contact me by telephone at (740) 380-5293 or by e-mail at [donna.goodman@epa.state.oh.us](mailto:donna.goodman@epa.state.oh.us).

Sincerely,



Donna Goodman

Inspector

Division of Materials and Waste Management

DG/mr

**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.**