



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

Re: Cafaro
American Mall Property
Allen County
Notice of Violation
RTC

January 14, 2013

Mr. Earnest Chance
Cafaro
2445 Belmont Avenue
Youngstown, Ohio 44504

Dear Mr. Chance:

Thank you for responding to my November 6, 2012, Notice of Violation (NOV) letter, which documented an October 24, 2012, inspection. You submitted analytical results dated December 3, 2012, documenting a November 12, 2012, sampling event and analytical results dated December 19, 2012, documenting a December 10, 2012, sampling event, both focused on the sampling of broken waste florescent lamp debris were sampled. The broken lamp debris was located inside of the American Mall Property located at 300 West Elm Street Lima, Ohio, identified as being owned by American Mall, Inc. Based on the data submitted it does not appear that any of the broken lamp debris sampled exhibited hazardous characteristics. In addition to the sample data you also submitted a map and photos documenting the sampling location and type of materials sampled and a certificate of recycling from Environmental Recycling indicating the proper management of 870 in tact waste lamps.

The following is the current status of the violations cited during my October 24, 2012, inspection:

1. Ohio Administrative Code (OAC) Rule 3745-52-11

A person, who generates waste, as defined in OAC Rule 3745-51-02, must determine if that waste is a hazardous waste.

The November 6, 2012, NOV cited Cafaro in violation of OAC Rule 3745-52-11 for not determining if whole or broken florescent lamps were hazardous. Spent florescent lamps are considered a universal hazardous waste in the state of Ohio and either must be managed as such, or must be proven to be a nonhazardous waste through sampling.

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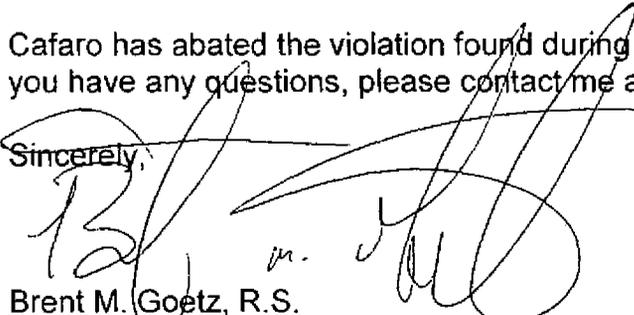
Broken lamps, which when intact are managed as a universal waste, must either be managed as a hazardous waste, or must be proven nonhazardous waste through sampling. The whole lamps and broken lamps observed during the inspection were not being managed as a universal waste or a hazardous waste, additionally no sampling data was available indicating that the whole or broken lamps were nonhazardous.

To abate this violation Cafaro must properly evaluate or manage all spent lamps on-site as a universal waste. Additionally, Cafaro must determine if the broken florescent lamps need to be managed as hazardous or nonhazardous waste. Ohio EPA is requesting a response from Cafaro, providing sample results and how Cafaro intends to manage each waste stream, along with a timeframe for when these materials will be managed.

On December 4, 2012 you submitted analytical data for the broken lamp debris. On December 21, 2012 you submitted additional analytical data for the broken lamp debris, a map depicting sample locations, photographs documenting the material sampled, and a certificate of recycling from Environmental Recycling for 870 waste lamps. The analytical data submitted indicated that none of the broken lamp debris sampled contained hazardous characteristics and the certificate of recycling indicated that the remaining intact lamps were properly managed. Therefore, this violation is considered abated.

Cafaro has abated the violation found during my October 24, 2012, inspection. Should you have any questions, please contact me at (419) 373-4114.

Sincerely,



Brent M. Goetz, R.S.
Division of Materials and Waste Management

/l/r

pc: Lisa Gifford, DMWM, NWDO
Colleen Weaver, DMWM, NWDO

ec: Josh Clifton, DAPC, NWDO
Colleen Weaver, DMWM, NWDO

Notice:

Ohio's 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.