



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

Re: Pro-Tec Coating Company  
OHD987043544  
Putnam County  
Notice of Violation

May 31, 2013

Mr. Rick Rupert  
Pro-Tec Coating Company  
5000 County Road 5  
Leipsic, Ohio 45856-9234

Dear Mr. Rupert:

On April 9, 2013 Pro-Tec Coating Company (Pro-Tec), shipped approximately 10 yards of what it referred to as "oily rags and absorbents" to Evergreen Recycling and Disposal Facility (ERDF). Shortly after the shipment was sent to ERDF it was discovered, through additional review of January 15, 2013 sampling data, by Nexeo Solutions (Nexeo), the contractor hired by Pro-Tec to manage this waste stream, that this waste stream potentially contained hazardous levels of cadmium. Nexeo, contacted ERDF on April 9, 2013 to notify them of the potential hazardous waste load; however the load had already been accepted by ERDF, placed onto the working face, and compacted with shipments from other customers. ERDF quarantined off the area where the material had been placed and excavated the "oily rags and absorbents" along with additional waste in the vicinity, totaling approximately 120 yards of material.

As stated by you, cadmium is not typically found in any of the materials handled at Pro-Tec and the hazardous result was overlooked when reviewing the sampling data at the end of January. After the discovery of the potentially hazardous shipment of "oily rags and absorbents" Pro-Tec conducted an investigation into the potential source and validity of the result, which included taking 4 samples from what was believed to be the "oily rags and absorbents" from the 120 yards excavated from the working face at ERDF, and conducting sampling throughout the Pro-Tec facility. None of the sampling results indicated levels of cadmium above regulatory limits. However, through the course of this investigation, it was discovered that the actual load of "oily rags and absorbents" that the January 15, 2013, sample containing the hazardous level of cadmium (reported to be 3.77 mg/l TCLP) was taken from, was actually shipped to ERDF for disposal on February 15, 2013. Additionally, an April 17, 2013, sample taken from the "oily rag and absorbents" waste stream at the Pro-Tec indicated hazardous levels of chromium. In response to this sample result, Pro-Tec took immediate steps to handle this waste stream as a hazardous waste. Currently, Pro-Tec is continuing its investigation to determine the source of both the January 15, 2013 cadmium result and the April 17, 2013 chromium result.

Based on May 3, 2013 correspondence providing sampling data and additional details regarding the situation, Pro-Tec is in violation of the following Ohio hazardous waste laws:

1. **Unlawful Transportation, ORC § 3734.02(F):**

No person shall transport or cause to be transported any waste identified or listed under the hazardous waste laws to a facility that is not a permitted hazardous waste facility.

Based on the January 15, 2013 sampling results the "oily rags and absorbent" waste stream sent to ERDF on February 15, 2013 contained hazardous levels of cadmium (D006). Pro-Tec caused the "oily rags and absorbent" to be unlawfully transported to ERDF, which was subsequently disposed as a solid waste.

Pro-Tec must provide a detailed response to Ohio EPA Northwest District Office (NWDO) indicating how this waste stream will be managed to ensure that similar incidents do not occur in the future.

2. **Manifest, OAC Rule 3745-52-20(A)(1):**

A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a manifest.

A hazardous waste manifest was not prepared for the February 15, 2013 shipment of "oily rags and absorbents" that went to ERDF.

In order to correct this violation Pro-Tec must provide a detailed response to Ohio EPA NWDO indicating how this waste stream will be manifested in the future, additionally Pro-Tec must provide Ohio EPA NWDO with a copy of the manifest from the next shipment of "oily rags and absorbents" that is currently on-site and reportedly tested hazardous for chromium.

3. **Land Disposal Restriction Notification (LDR), OAC Rule 3745-270-07(A)(2):**

If a waste does not meet treatment standards, or if the generator chooses to not determine if the waste must be treated, a onetime written notice must be sent to each treatment storage and disposal facility receiving the waste.

A written notice was not sent with the February 15, 2013 shipment of "oily rags and absorbents" that went to ERDF.

In order to correct this violation Pro-Tec must provide a detailed response to Ohio EPA NWDO indicating the understanding of LDR requirements and providing details of how these requirements will be met for future shipments of this waste stream. Additionally,

Pro-Tec must provide a copy of the LDR for included with the next shipment of "oily rags and absorbents" that is currently on-site and reportedly tested hazardous for chromium.

4. **Waste Evaluation, OAC Rule 3745-52-11:**

Any person who generates a waste must determine if that waste is a hazardous waste by using generator knowledge or by testing the waste.

Based on the January 15, 2013, sampling results the "oily rags and absorbent" waste stream sent to ERDF on February 15, 2013, contained hazardous levels of cadmium (D006). An additional shipment of the same waste stream was shipped to ERDF on April 9, 2013, with the last sampling result for the waste stream being the January 15, 2013, sample that indicated hazardous levels of cadmium.

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Additionally, subsequent samples of the same waste stream at Pro-Tec indicated hazardous levels of chromium (D007). As demonstrated by a hazardous waste shipment of "oily rags and absorbents" going to ERDF on February 15, 2013, a potentially hazardous shipment going to ERDF on April 9, 2013, and an unexpected hazardous level of chromium in a sample taken on April 17, 2013, Pro-Tec has not properly evaluated this waste stream.

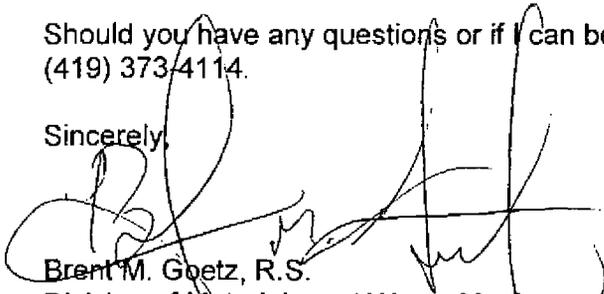
In order to correct this violation Pro-Tec must provide a detailed response to Ohio EPA NWDO indicating how this waste stream will be managed to ensure that it has been properly evaluated and characterized. This should include Pro-Tec's proposed sampling and analysis plan for this waste stream, including frequency and method of obtaining representative samples.

Pro-Tec needs to take the necessary measures to return to compliance with Ohio's environmental laws. Pro-Tec is requested to provide information documenting compliance within **14 days** of receipt of this letter. All correspondence and documentation can be sent to my attention at Ohio EPA NWDO or via email to [brent.goetz@epa.ohio.gov](mailto:brent.goetz@epa.ohio.gov).

Please be advised that the 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 the violations, Pro-Tec is requested to submit written correspondence of steps that will be taken by date certain to attain compliance.

Should you have any questions or if I can be of assistance, please contact me at (419) 373-4114.

Sincerely,



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

/cg

pc: Lisa Gifford, DMWM, NWDO  
Colleen Weaver, DMWM, NWDO  
Sue Brauer, US EPA

ec: Colleen Weaver, DMWM, NWDO  
Sue Hardy  
Brent Goetz

**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.