



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

Eval 002

Enf. 002

RTC'd 3 violations

August 22, 2013

Certified Mail

Mr. Edwin Huey, President
Regulated Recyclers, Inc.
3000 Jasper Road
Xenia, OH 45385

**RE: Partial Return to Compliance/Notice of Violation – OHR000176743
2908 Cincinnati-Dayton Road, Middletown, Ohio**

Dear Mr. Huey:

I am writing this letter as a follow-up to my May 22, 2013, inspection at your facility and my June 7, 2013, Notice of Violation (NOV) letter. I'd like to start by clarifying what constitutes storage at your facility. During the May 22, 2013, inspection you explained that the solvent recycler can hold only 40-45 gallons of waste at one time. A solvent waste drum or tote is connected to the recycling unit and then you must manually pump the solvent waste into the recycling unit for it to be recycled, it is not a continuous feed system. Because the solvent waste is not continuously fed into the recycling unit, the drum or tote cannot be considered part of the recycling process even though it is hooked up to the unit. The solvent waste remaining in the drum or tote that is hooked up to the recycling unit is considered to be in storage.

Additionally, you explained that containers of hazardous waste were kept on the transport truck at the facility to avoid storage. A facility cannot have a 10-day transfer station onsite for wastes destined to the facility. Once the transport vehicle reaches the destination facility, the hazardous waste containers are no longer "in the normal course of transportation." Therefore, any hazardous waste containers stored on the transport vehicle at the facility are considered to be in storage prior to the recycling process.

During the May 22, 2013, inspection we explained that you could not store waste prior to the recycling process without a hazardous waste permit or without complying with the "72-hour" rule. We reviewed and provided a copy of the "72-hour" checklist to you during the inspection.

On June 7, 2013, a notice of violation letter (NOV) was issued to Regulated Recyclers at 2908 Cincinnati Dayton Road. The letter was later returned by the Post Office as undeliverable. The NOV was then mailed Certified to your home address at 3000 Jasper Road, Xenia with a date receipt of June 24, 2013.

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On August 13, 2013, I received four (4) emails from you containing documentation to mitigate violations cited in the June 7, 2013, NOV letter. The documentation included the following: Site ID Form; July monthly waste log; picture of warning sign on door; weekly inspection log; facility layout map; Emergency Action Plan; accountability sheet; facility layout for notification; and five (5) notification letters to various emergency response agencies.

On August 14, 2013, I received two (2) additional emails from you containing biennial report data.

Based on the documentation provided, the following violations from the June 7, 2013, NOV letter have been corrected:

Violation #4: Ohio Administrative Code (OAC) 3745-65-14(C), Security

Violation #6: OAC 3745-65-15 (D), General inspection requirements

Violation #7: OAC 3745-65-33, Testing and maintenance of equipment

The following violations from the June 7, 2013, NOV are still outstanding:

Violation #1: ORC 3734.02 (E)(2) and (F):

(E)(2) Except as provided in division (E)(3) of this section, no person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Revised Code and subject to the payment of an application fee not to exceed one thousand five hundred dollars, payable upon application for a hazardous waste facility installation and operation permit and upon application for a renewal permit issued under division (H) of section 3734.05 of the Revised Code, to be credited to the hazardous waste facility management fund created in section 3734.18 of the Revised Code. The term of a hazardous waste facility installation and operation permit shall not exceed ten years.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises.

OAC 3745-51-06(C)(1) states in part, "Owners or operators of facilities that store recyclable materials before they are recycled must obtain a hazardous waste installation and operation permit in accordance with Chapter 3734 of the Revised Code.

OAC 3745-51-06(C)(3)(a) states in part, "Owners or operators of facilities that enter recyclable materials into a recycling process within seventy-two hours after arrival at the facility. . .may store recyclable materials in containers, tanks, or containment buildings without an Ohio hazardous waste permit provided the requirements listed in OAC 3745-51-06(C)(3)(a)(i) thru (xx) are met.

On June 12, 2013, Parsons Company Inc. shipped a 330 gallon hazardous waste container to Regulated Recyclers for solvent recovery. 330 gallons far exceeds the holding capacity of the two (2) recycling units and Regulated Recyclers has not come into compliance with all the provisions of OAC 3745-51-06(C)(3)(a).

Because Regulated Recyclers is still not in compliance with the applicable hazardous waste rules, **Regulated Recyclers remains in violation of ORC 3734.02(E) and (F).**

Violation #3: OAC 3745-51-06(C)(3)(a)(xiii), Requirements for recyclable materials: Maintain an inventory log in the operating record containing this information for three years:

- (a) The date and time when the recyclable material arrived at the facility;
- (b) The quantity and type of material received;
- (c) The name and address of the facility where the recyclable materials shipment originated; and
- (d) The date and time that the recyclable material was placed into the recycling process.

Regulated Recyclers inventory log does not list the time when recyclable material arrived at the facility and the time that the recyclable materials waste placed into the recycling process as required by this rule. **Therefore, Regulated Recyclers is still in violation of OAC 3745-51-06(C)(3)(a)(xiii).**

Violation #5: OAC 3745-65-15 (B)(1) and (2), General inspection requirements: (1) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety, and emergency equipment, security devices and operating and structural equipment that are important to preventing, detecting or responding to environmental or human health hazards; (2) The owner or operator must keep this schedule at the facility.

Regulated Recyclers did not provide a written inspection schedule as required by this rule. **Therefore, Regulated Recyclers is still in violation of OAC 3745-65-15(B)(1) and (2).**

Violation #8: OAC 3745-66-42, Cost estimate for closure: The owner or operator must have a detailed written estimate, in current dollars of the cost of closing the facility.

Regulated Recyclers is working to provide this information but has yet to submit it. **Therefore, Regulated Recyclers is still in violation of OAC 3745-66-42.**

Violation #9: OAC 3745-66-43, Financial assurance for facility closure: An owner or operator of each facility must establish financial assurance for closure of the facility.

Regulated Recyclers is working to provide this information but has yet to submit it. **Therefore, Regulated Recyclers is still in violation of OAC 3745-66-43.**

Violation #10: OAC 3745-66-47, Liability requirements: An owner or operator of a hazardous waste treatment, storage, or disposal facility must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operation of the facility. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least one million dollars per occurrence with an annual aggregate of at least two million dollars, exclusive of legal defense costs.

I received a copy of Regulated Recyclers' liability insurance on August 20, 2013. The Financial Assurance Section will review the documentation to determine its compliance with OAC 3745-66-47. **Until the review is complete and compliance is verified, Regulated Recyclers is still in violation of OAC 3745-66-47.**

Violation #11: OAC 3745-65-73(A),(B)(3) to (B)(14), Operating record: The owner or operator must keep a written operating record at the facility. The operating record should contain at a minimum: records and results of required analysis, summary reports and details of all incidents that required implementation of the contingency plan, records and results of required inspections, and all closure estimates.

Regulated Recyclers has not detailed how it plans to maintain an operating record. **Therefore, Regulated Recyclers is still in violation of OAC 3745-65-73.**

Violation #12: OAC 3745-65-75, Biennial report: The owner or operator must prepare and submit a single copy of a biennial report to the director by March first of each even numbered year. The biennial report must be submitted on the form and instructions supplied by the director. The report must cover facility activities during the previous calendar year and must include the information listed in OAC 3745-65-75(A) to (J).

Regulated Recyclers submitted data that was incomplete and not in the appropriate format. **Therefore, Regulated Recyclers is still in violation of**

OAC 3745-65-75.

On August 14, 2013, I emailed you a list of deficiencies in the biennial report submittal. On August 18, 2013, you responded via email to inform me you would be resubmitting the biennial report with the appropriate information.

Violation #13: OAC 3745-66-74, Inspections: The owner or operator must inspect areas where containers are stored, at least once during the period from Sunday to Saturday, looking for leaks and for deterioration caused by corrosion or other factors. The owner or operator must record inspections in an inspection log or summary.

While you provided a copy of an inspection log, the log was not completed and did not show any inspections of the hazardous waste containers currently stored in the 180-day storage area. **Therefore, Regulated Recyclers is still in violation of OAC 3745-66-74.**

I have reviewed Regulated Recyclers Emergency Action and RCRA Contingency Plan submitted via email on August 13, 2013. Based on my review of the Contingency Plan, Regulated Recyclers is in violation of the following hazardous waste regulations:

1. **OAC 3745-54-52(A), Content of contingency plan:** The contingency plan must describe the actions facility personnel must take to comply with rules 3745-54-51 and 3745-54-56 of the Administrative Code in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

Regulated Recyclers does not describe how it will comply with OAC 3745-54-56. **Therefore, Regulated Recyclers is in violation of OAC 3745-54-52(A).**

2. **OAC 3745-54-52(E), Content of contingency plan:** The contingency plan must include a list of all emergency equipment at the facility [such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment], where this equipment is required. This list must be kept up to date. In addition, the contingency plan must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

Regulated Recyclers' Contingency Plan does not contain a list of emergency equipment, a physical description of each item on the list and a brief outline of its capabilities. **Therefore, Regulated Recyclers is in violation of OAC 3745-54-52(E).**

To return to compliance, provide an updated Contingency Plan which includes details on how Regulated Recyclers will comply with OAC 3745-54-56 and a list

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of emergency equipment with a physical description of each item and a brief outline of its capabilities.

Regulated Recyclers needs to immediately take the necessary measures to return to compliance with Ohio's hazardous waste laws. 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.

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

Should you have any questions, please feel free to call me at (937) 285-6093.

Sincerely,



Cathy L. Altman
District Representative
Division of Materials and Waste Management

CA/kb

ec: DMWM Data Entry/Facility File
George Strobel, DMWM, SWDO
Tammy Heffelfinger, DMWM, CO

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Sent To MR. EDWIN HUEY, PRESIDENT
 Street, Apt. No., or PO Box No. REGULATED RECYCLERS, INC.
 3000 JASPER ROAD
 City, State, ZIP+4 XENIA, OHIO 45385

PS Form 3800, August 2006

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 REGULATED RECYCLERS, INC.
 3000 JASPER ROAD
 XENIA, OHIO 45385

2. Article Number

(Transfer from service label)

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Ed Huey

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8/26/13

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