



September 25, 2013

**CERTIFIED MAIL 91 7108 2133 3932 0812 0506**

Mr. Samuel Warren  
Delta Fuels, Inc.  
1820 Front Street  
Toledo, OH 43605

**Re: Delta Fuels, Inc. (OHD 000 724 278)  
Financial Record Review: Notice of Violation**

Dear Mr. Warren:

On September 24, 2013, I completed financial record review for the Delta Fuels, Inc. facility referenced above. I evaluated your facility for compliance with closure cost estimate, financial assurance for closure, and liability requirements set forth in Ohio Administrative Code (OAC) rules 3745-55-42, 3745-55-43, and 3745-55-47, as well as the Director's Final Findings and Orders, dated March 7, 2012.

Delta Fuels submitted closure cost estimates, dated September 14, 2012, for the secondary containment area (\$256,663.00), VRU (\$72,452.00), and stockpile and roll off areas (\$115,559.00). The total of the cost estimates is \$444, 674.00.

To demonstrate financial assurance for closure, Delta Fuels uses a Letter of Credit (LOC) and standby trust agreement. The LOC (No.CTCS-325350), issued by JP Morgan Chase Bank, N.A., is in the amount of \$450,000.00 and is effective as of September 4, 2012. The standby trust agreement was entered into by and between Delta Fuels, Inc. and JP Morgan Chase Bank, N.A. on August 30, 2012.

To demonstrate liability coverage, on May 30, 2013, Delta Fuels submitted an ACORD Certificate of Liability Insurance for Policy No. PLL12472978, issued by Chartis Specialty Insurance Company. The policy has an effective date of September 19, 2012 and expires September 19, 2015.

**Based upon review of the documentation noted above, I have found the following violations of Ohio's hazardous waste laws and the March 7, 2012 Director's Final Findings and Orders:**

- **OAC rule 3745-55-47(A)(1)(a)** requires that each insurance policy must be amended by attachment of the "Hazardous Waste Liability Endorsement" or evidenced by a "Certificate of Liability Insurance." The wording of the endorsement must be identical to the wording specified in paragraph (I) or rule 3745-55-51 of the Administrative Code. The wording of the certificate of insurance must be identical to the wording specified in paragraph (J) of rule 3745-55-51 of the Administrative Code. The owner or operator must submit a signed duplicate of the endorsement or certificate of insurance to the director; and
- **Order No. 5 of the Director's Final Findings and Orders** requires that Delta Fuels, Inc. establish liability coverage in accordance with OAC rule 3745-55-47.

Although the submitted ACORD certificate does provide some of the required information, it does not meet the wording requirements for a Hazardous Waste Facility Certificate of Liability Insurance. The ACORD certificate also lists a \$1,000,000 limit for the Pollution Policy. Delta Fuels, Inc. is required to maintain insurance coverage for sudden accidental occurrences with limits of at least \$1,000,000 per occurrence and \$2,000,000 annual aggregate until closure has been certified.

**To abate the above violations, Delta Fuels, Inc. needs to submit a Hazardous Waste Facility Liability Endorsement or Hazardous Waste Facility Certificate of Liability Insurance with the required wording as specified in paragraph (I) or (J) of OAC rule 3745-55-51, respectively. The endorsement or certificate submitted must be a signed duplicate original and include the correct limit amounts.**

Delta Fuels, Inc. needs to immediately take steps to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Delta Fuels, Inc. is requested to submit to this office documentation of the steps taken to abate the violations cited above. 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 [melissa.cheung@epa.state.oh.us](mailto:melissa.cheung@epa.state.oh.us).

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, Delta Fuels, Inc. is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

**I have also noted the following general concerns:**

- **OAC rule 3745-55-42(B):** During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with rule 3745-55-43 of the Administrative Code.
- **OAC rule 3745-55-42(E):** A copy of the facility's current, detailed closure cost estimate prepared and maintained in accordance with paragraphs (A) and (B) of this rule must be submitted annually to the director of Ohio EPA.

The closure cost estimate must be adjusted within 60 days prior to the anniversary of the establishment of the financial instrument and submitted annually. The anniversary date of your financial instrument (LOC No. CTCS-325350) is September 4. In accordance with 3745-55-42(B), the adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent "Implicit Price Deflator for Gross National Product" published by the U.S. Department of Commerce in its "Survey of Current Business." The annual inflation factor for 2013 is 1.7%.

Also, the detailed closure cost estimate should include all costs necessary for closure of the site, including closure certification and contingency costs. Please ensure that the appropriate costs are reflected in the estimate. **Please provide an updated, detailed closure cost estimate in accordance with your current, approved closure plan with your upcoming financial assurance submittal.**

Furthermore, if the updated cost estimate exceeds the value of the current LOC, within 60 days after the increase, Delta Fuels, Inc. must either increase the LOC to an amount at least equal to the current closure cost estimate or obtain other financial assurance to cover the increase, in accordance with 3745-55-43(D).

If you have any questions, or need further clarification of any matter mentioned in this letter, please feel free to contact me at (614) 644-3067 or at [melissa.cheung@epa.state.oh.us](mailto:melissa.cheung@epa.state.oh.us).

Sincerely,



Melissa Cheung  
Engineering, Remediation, and Authorizations Sections  
Division of Materials and Waste Management

MC/ljm

ec: Brian Patterson, DERR, NWDO  
Colleen Weaver, DMWM, NWDO  
Kelly Smith, DMWM, CO  
Tim Kern, AGO

**Notice:**

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with applicable regulations.