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OHIO E.P.A.

JAN 23 2014

ENTERED DIRECTOR'S JOURNAL

By: Jim Lassiter Date: 1-23-14

BEFORE THE

OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

Pro-Tec Coating Company
5000 County Road 5
Leipsic, Ohio 45856

Expedited Settlement
Agreement and
Director's Order

Respondent

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to Pro-Tec Coating Company (Respondent) pursuant to the authority vested in the Director of the Ohio Environmental Protection Agency (Ohio EPA) under Ohio Revised Code ("ORC") §§ 3734.13 and 3745.01.

II. FINDINGS

1. Respondent is a "person" as defined in ORC § 3734.01(G) and Ohio Administrative Code (OAC) rule 3745-50-10(A).
2. Respondent operates a steel processing facility located at 5000 County Road 5, Leipsic, Putnam County, Ohio 45856 (Facility).
3. At the Facility, Respondent generates "hazardous waste" as that term is defined by ORC § 3734.01(J) and OAC rules 3745-50-10(A) and 3745-51-03. Respondent is a large quantity generator of hazardous waste and has been assigned EPA ID number OHD987043544. The hazardous wastes generated by Respondent at the Facility include hazardous waste contaminated debris and PPE (D002, D007), spent printer ink and solvent (D001, F003), phosphoric/chromic acid waste (D002), aerosol can residuals (D001, D005, D039), waste paint related materials (D001, F003), and lab waste (D001) as described in OAC rules 3745-51-21, 3745-51-22, 3745-51-24, and 3745-51-31.

4. In addition to the waste streams identified in Finding No. 3. of this ESA, Respondent also generates a spent oily rag waste stream that has historically been managed as a solid waste. The solid waste landfill managing this waste requires the waste profile to be renewed biennially. Respondent sampled the oily rag waste stream on December 11, 2008, and January 12, 2010, and the sample results for both events indicated the waste stream was non-hazardous.
5. As required by OAC rule 3745-52-11 and as part of the solid waste landfill's re-approval process for the waste profile, the spent oily rag waste stream was again sampled on January 14, 2013. On January 23, 2013, Respondent received analytical results for the samples demonstrating the spent oily rags were characteristically hazardous for cadmium (D006) as described in OAC rule 3745-51-24.
6. On February 15, 2013, Respondent caused the transportation of ten (10) cubic yards of the characteristically hazardous spent oily rags, as referenced in Finding No. 5. of this ESA, to the solid waste landfill facility, which is not authorized to dispose of hazardous waste.
7. On April 9, 2013, Respondent caused the transportation of another ten (10) cubic yard shipment of spent oily rags to the solid waste landfill.
8. On April 9, 2013, a waste contractor, hired by Respondent, reviewed the January 23, 2013, analytical results and notified the solid waste landfill of the potential receipt of hazardous waste at its facility earlier that day. The solid waste landfill took prompt remedial action by excavating and segregating approximately one hundred twenty (120) cubic yards of waste.
9. On April 10, 2013, Respondent collected samples from the excavated waste referenced in Finding No. 8. of this ESA, and the results indicate the samples from the April 9, 2013, shipment did not exhibit a characteristic of a hazardous waste.
10. Based upon these events, Respondent conducted an internal investigation into the generation and subsequent management of the spent oily rag waste stream at the Facility. Respondent determined that the hazardous cadmium (D006) results were from the shipment of spent oily rag waste that was sent to the solid waste landfill on February 15, 2013, as referenced in Finding No. 6. of this ESA, as opposed to the shipment on April 9, 2013.
11. On April 19, 2013, Ohio EPA contacted Respondent to discuss the shipments of spent oily rags referenced in Finding Nos. 6. and 7. of this ESA.
12. By letters dated April 19, April 22, and May 3, 2013, Respondent notified and provided information to Ohio EPA regarding the February 15, 2013, shipment of

hazardous waste spent oily rags to the unauthorized solid waste landfill. These responses included all analytical results for this spent oily rag waste stream from 2008 through the April 10, 2013, sampling of the excavated waste referenced in Finding No. 9. of this ESA. Additionally, Respondent provided an explanation of how the hazardous waste characteristic for cadmium (D006) in the January 14, 2013, samples was overlooked when determining the proper disposal option for the spent oily rags.

13. Based on the information in Finding Nos. 6. and 10. of this ESA, Ohio EPA determined that Respondent, *inter alia*:
 - a. Transported, or caused to be transported, hazardous waste to an unauthorized facility, in violation of ORC § 3734.02 (F). Specifically, Respondent shipped characteristic hazardous waste spent oily rags to an unauthorized facility on February 15, 2013;
 - b. Failed to prepare a manifest for the transportation of hazardous waste off-site for the February 15, 2013, shipment of characteristic hazardous waste spent oily rags, in violation of OAC rule 3745-52-20(A)(1); and
 - c. Failed to send written notice of land disposal restrictions for the characteristic hazardous waste spent oily rags shipped to an unauthorized facility on February 15, 2013, in violation of OAC rule 3745-270-07(A)(2).
14. By letter dated May 31, 2013, Respondent was notified of the violations referenced in Finding No. 13. of this ESA.
15. By letter dated July 2, 2013, Respondent provided a detailed response in regard to the violations referenced in Finding No. 13. of this ESA. Based upon a review of this response, the Director has determined the Respondent has abated the violations referenced in Findings Nos. 13.b. and 13.c. of this ESA.
16. The Director has determined that Respondent made considerable effort to determine the source of the cadmium (D006) contamination referenced in Finding No. 5. of this ESA. During this investigation, Respondent collected samples of the spent oily rag waste stream at the Facility. The analytical results indicate these samples were characteristically hazardous for chromium (D007), as described in OAC rule 3745-51-24. Until the sources of contamination can be determined, Respondent is managing the oily rag waste stream as a hazardous waste. Based upon this information and the response referenced in Finding No. 15. of this ESA, the Director has determined that no further action is required regarding the violation referenced in Finding No. 13.a. of this ESA.
17. In consideration of Respondent's compliance history, its good faith effort to comply in this matter, the benefits of prompt compliance to the public, and other

factors as justice may require, and upon consideration of the entire record, this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

1. Within sixty (60) days from the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of \$1,600.00 in settlement of the Ohio EPA's claim for civil penalties, which may be assessed pursuant to Chapter 3734.13 of the Ohio Revised Code. Payment shall be made by tendering an official check made payable to "Treasurer, State of Ohio" for the full amount, and shall be deposited in the hazardous waste cleanup fund established pursuant to ORC § 3734.28. Payment shall be mailed to the following address: Ohio EPA, Office of Fiscal Administration, P.O. Box 1049, Columbus, Ohio 43216-1049, together with a letter identifying Respondent. A copy of this check shall be submitted to Supervisor, Processing/Records Management Unit, Ohio EPA, Division of Materials and Waste Management, P.O. Box 1049, Columbus, Ohio 43216-1049.

IV. TERMINATION

Respondent's obligations under this ESA shall terminate upon both Ohio EPA's entry of this ESA in the Ohio EPA Director's journal and Ohio EPA's receipt of the civil penalty payment required by this ESA.

V. RESERVATION OF RIGHTS AND WAIVER

Ohio EPA and Respondent each reserve all rights, privileges and causes of action, except as specifically waived herein.

In order to resolve disputed claims, without admission of fact, violation or liability, and in lieu of further enforcement action by Ohio EPA for only the violations specifically cited in this ESA, Respondent consents to the issuance of this ESA and agrees to comply with this ESA. Compliance with this ESA shall be a full accord and satisfaction of Respondent's liability for the violations specifically cited herein.

Respondent hereby waives the right to appeal the issuance, terms and conditions, and service of this ESA, and Respondent hereby waives any and all rights Respondent may have to seek administrative or judicial review of this ESA either in law or equity.

Notwithstanding the preceding, Ohio EPA and Respondent agree that if this ESA is appealed by any other party to the Environmental Review Appeals Commission, or any

court, Respondent retains the right to intervene and participate in such appeal. In such an event, Respondent shall comply with this ESA notwithstanding such appeal and intervention unless this ESA is stayed, vacated, or modified.

VI. EFFECTIVE DATE

The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

VII. SIGNATORY AUTHORITY

Each undersigned representative or party to this ESA certifies that he or she is fully authorized to enter into this ESA and to legally bind such party to this ESA.

IT IS SO ORDERED AND AGREED:

Ohio Environmental Protection Agency

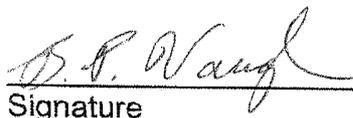


Craig W. Butler, Interim Director

January 23, 2014
Date

IT IS SO AGREED:

Pro-Tec Coating Company



Signature

Bryan Vaughn
Printed or Typed Name

President
Title

January 13, 2014
Date