

OHIO E.P.A.

MAY -8 2012

BEFORE THE ENTERED DIRECTOR'S JOURNAL
OHIO ENVIRONMENTAL PROTECTION AGENCY

In the matter of:

TOXCO, INC.
265 Quarry Rd.
Lancaster, Ohio 43130

Respondent

Expedited Settlement
Agreement and
Director's Order

I certify this to be a true and accurate copy of the official documents as filed in the records of the Ohio Environmental Protection Agency.

By: Denise Cassiter Date: 5-8-12

I. JURISDICTION

This Expedited Settlement Agreement and Director's Order ("ESA") is issued to TOXCO, INC. ("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 owns and operates a universal waste destination facility for nickel cadmium and lead acid batteries located at 265 Quarry Rd., Lancaster, Fairfield County, Ohio (Facility). Respondent was issued a hazardous waste facility installation and operation permit for storage on December 21, 2005. The permit includes the requirement to implement Facility-wide corrective action. Respondent is also a large quantity universal waste handler in addition to a large quantity generator of hazardous waste.
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. Hazardous wastes generated by Respondent include lead plates (D008).
4. On February 1, 2012, Ohio EPA conducted a compliance evaluation inspection at the Facility. As a result of this inspection, Ohio EPA determined that Respondent stored 14 containers of hazardous waste lead plates (D008) without a permit, in violation of ORC § 3734.02(E) and (F).

5. During the inspection and at the direction of Ohio EPA, Respondent moved all 14 containers of hazardous waste back into the permitted storage area. During the inspection, Ohio EPA did not observe any evidence of releases from the containers. Additionally, Respondent was conducting daily inspections of the less than 90-day area and no spills or releases were noted on the inspection documentation.
6. By letter dated February 15, 2012, Ohio EPA notified Respondent of the violation referenced in Finding No. 4. of this ESA. Because Ohio EPA did not observe any evidence of releases of hazardous waste in the accumulation area, inspection documentation confirmed there were no releases, the area will continue to be used to accumulate hazardous waste and is subject to generator closure, and the less than 90-day area would be a waste management unit for purposes of implementing Facility-wide corrective action, the Director has determined that closure, pursuant to OAC Chapters 3745-54 and 55, of the accumulation area is not required.
7. In consideration of Respondent's responsiveness and cooperation in returning to compliance, the benefits of prompt compliance to the public, the efficient use of Ohio EPA resources, and other factors as justice may require, and upon consideration of the entire record, the Director finds this ESA is an appropriate mechanism to resolve the noncompliance detailed in these Findings.

III. ORDER

Within sixty (60) days after the date of the Director's letter inviting Respondent to sign this ESA, Respondent shall pay to the Ohio EPA the amount of \$4,400.00 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 into 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 and the location of the noncompliance detailed in the Findings of this ESA.

A photocopy of this check shall be sent to Ohio EPA at the address listed below:

Ohio Environmental Protection Agency
Division of Materials and Waste Management
P.O. Box 1049, Columbus, Ohio 43216-1049
Attn: Supervisor, Processing/Records Management Unit

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

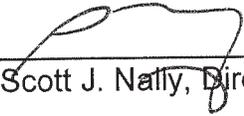
The effective date of this ESA is the date this ESA is entered into the Ohio EPA Director's journal.

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

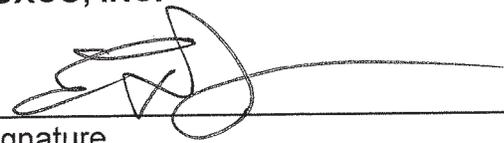


Scott J. Nally, Director

May 8, 2012
Date

IT IS SO AGREED:

TOXCO, INC.



Signature

4-23-12
Date

EDWARD J. GREEN

Printed or Typed Name

V.P. EAST COAST OPERATIONS

Title