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Hazardous Waste Enforcement: Tennessee Department of Environment and Conservation and Piney Flats, Tennessee Manufacturing Facility Enter into Consent Order Addressing Alleged Violations

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The Tennessee Department of Environment and Conservation Division of Solid Waste Management (“Division”) and Microporous, LLC (“Respondent”) entered into a July 11th Director’s Consent Order (“Consent Order”) addressing alleged violations of certain Tennessee rules related to hazardous waste.

Respondent is stated to operate a manufacturing facility in Piney Flats, Tennessee which produces battery separators using natural and synthetic rubber.

The Consent Order provides that Respondent is a large quantity generator of hazardous waste and has an Environmental Protection Agency facility identification number.

Division personnel were stated to have conducted inspections at the Respondent’s facility on April 7 and April 14, 2015 and allegedly discovered certain violations of the Tennessee Hazardous Waste Management Act and associated administrative rules.

The Consent Order references an April 7, 2015 site inspection and an April 14, 2015 records review by the Division which allegedly identifies the following violations:

- Failure to close five satellite containers of hazardous waste
- Failure to label five satellite containers of hazardous waste to identify contents
- Failure to mark a satellite container of hazardous waste with an accumulation start date
- Failure to label five containers and structures collecting used oil with the words “Used Oil”
- Failure to enclose a container of hazardous waste stored in the 90-day accumulation area
- Failure to properly containerize hazardous waste collecting in secondary containment units
- Failure to submit notification to the Division regarding the generation of two hazardous wastestreams
- Failure to include wastestream codes on notification forms for hazardous wastestreams generated in the Analytical Laboratory
- Failure to timely provide annual training review for employees managing hazardous waste

- Failure to provide documentation that hazardous waste stored in a tank has an organic content of less than 10 percent by weight and is therefore exempt from air monitoring requirements
- Failure to provide documentation that hazardous waste stored in a tank has an organic content of less than 500 ppm by weight at the point of generation and is therefore exempt from air monitoring requirements
- failure to provide documentation for annual review of the waste at the point of generation
- Failure to update current emergency coordinator information in the Contingency Plan

Respondent in addressing the alleged violations noted that it had not submitted notification for waste generated in the Analytical Laboratory since the material is disposed of in a lab pack. Further, the Consent Order states that:

. . .the Analytical Lab materials had been reported under the wastestream Waste Acid N.O.S. along with other insignificant lab waste activities and spent acids. Additionally, a notification had not been submitted for hazardous waste contaminated oil-dry material generated in the Distillation Room as the oil/dry is considered a contaminant that is picked up when cleaning spills. The operators build a “dike” of oil-dry around the bottom-sides of the pan to prevent any spills from being suctioned underneath the pan. Spills in this area do result in some minor amounts of oil-dry becoming mixed with the hazardous waste oil, but should be considered no more reportable as a wastestream than other materials gathered up during cleaning.

As to lack of training, Respondent stated that the training had not been conducted due to the lack of an Environmental Health and Safety Manager and noted that according to an Environmental Protection Agency Interpretative Letter the timing of the training would be compliant with the interpretation of “annual training”. The Consent Order further notes that the Environmental Protection Agency letter does not set a hard 12 or 15 month interval but determines the questioner’s compliance as excerpted below:

While United Technologies, Pratt & Whitney’s program may allow as much as 15 months to pass between training courses, an employee would, over the course of four years for example, receive 4 annual training reviews. Therefore, United Technologies, Pratt & Whitney’s training system as described in your letter would meet the requirements of the federal regulation at 40 CFR 264.16, and 40 CFR 265.16.

The Consent Order notes that this Environmental Protection Agency interpretation renders Respondent’s retraining timeframe acceptable.

As to the lack of records documenting the organic content of wastestream #1 F001/D040 Respondent’s representative stated that the inspection was conducted on the first day of the Environmental Health and Safety Manager’s employment and he was unsure where the information was located when asked. The information was secured and provided to the Division in a timely manner. As to the out-of-date Contingency Plan, Respondent stated that the inspection was again conducted on the first day of the Environmental Health and Safety Manager’s employment and that the emergency coordinator information had not yet been dated.

A civil penalty of \$2,389.80 was assessed.

[A copy of the Consent Order can be downloaded here.](#)