Hazardous Waste Enforcement: Arkansas Department of Energy and Environment - Division of Environmental Quality and Hot Springs Sawmill Equipment Manufacturing Facility Enter into Consent Administrative Order

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The Arkansas Department of Energy and Environment – Division of Environmental Quality ("DEQ") and Timber Automation, LLC ("TA") entered into a December 17th Consent Administrative Order ("CAO") addressing alleged violations of Arkansas Pollution Control and Ecology Commission Regulation No. 23 (Hazardous Waste Regulations). See LIS 20-200.

The CAO provides that TA is a sawmill equipment manufacturing plant ("Facility") located in Hot Springs, Arkansas.

The Facility is stated to generate characteristic and listed hazardous waste through painting and cleaning operations performed on fabricated steel components. It is also stated to generate hazardous waste through the cleaning of paint guns and brushes with lacquer thinner. In addition, it is stated to generate used oil and universal waste consumer electronic items.

The Facility is stated to have notified DEQ of its status as a Conditionally Exempt Small Quantity Generator in 2009. However, the CAO provides that based on the amount of hazardous waste generated and shipped off-site, TA is alleged to be operating as a Small Quantity Generator in 2015 and 2016 and constituted a Large Quantity Generator in 2017 and 2018. Further, TA is stated to be a Small Quantity Handler of Universal Waste.

DEQ is stated to have received on December 7, 2018, two anonymous complaints regarding TA's Facility. These complaints alleged:

- TA was storing sandblasting material in a parking lot on the side of the building
- The TA Facility had a mobile crane that had leaked a full reserve of hydraulic oil onto the ground and the soil beneath the replacement crane

DEQ is stated to have conducted a Compliance Evaluation Inspection ("CEI") on January 17, 2019, at the Facility. Further, a sampling event is stated to have occurred on January 24, 2019.

The CAO provides that based on the findings of the CEI and the sampling event, DEQ allegedly identified the following violations of Arkansas Pollution Control and Ecology Commission Regulation 23, which include:

- Failure to keep hazardous waste containers properly closed
- Failure to properly label hazardous waste containers
- Failure to properly mark hazardous waste containers with accumulation start dates
- Failure to adequately mark hazardous waste storage containers
- Failure to submit an annual report on time
- Failure to ensure adequate training of all hazardous waste management employees
- Failure to ensure adequate records of all hazardous waste management positions
- Failure to ensure adequate descriptions of all hazardous waste management positions
- Failure to provide adequate space for movement
- Failure to properly inspect hazardous waste storage containers

TA submitted a response to the CEI on April 26, 2019. DEQ did not believe the response adequately addressed all violations. TA subsequently informed DEQ on July 28, 2020, that all unaddressed violations would be corrected as soon as possible and submitted a request to reduce a civil penalty which was based on reduced business activity related to the ongoing public health crisis.

The CAO requires that within 30 days of the effective date of the CAO TA submit photographic documentation demonstrating all hazardous waste satellite accumulation containers are closed as required and demonstrate that all containers of hazardous waste are properly labeled. Further, TA is required within 30 calendar days of the effective date of the CAO to submit photographic documentation demonstrating all containers of hazardous waste located in a specified area are marked with the accumulation start date.

TA is required to conduct within 30 calendar days of the effective date of the CAO an Internal Compliance Audit of all hazardous waste management practices and related activities. This audit is required to be of sufficient scope to identify any instances of noncompliance with applicable hazardous waste management requirements, whether identified by the CEI report or not.

TA is required within 60 calendar days of the effective date of the CAO to submit to DEQ a report describing actions taken to achieve and maintain compliance with respect to any instances of noncompliance revealed by the Internal Compliance Audit. Further, within 60 days of the effective date of the CAO TA is required to provide DEQ with a list of job titles for each position related to hazardous waste as well as the name of each employee filling each position.

TA is required within 90 calendar days of the effective date of the CAO to provide DEQ information demonstrating that hazardous waste training has been provided to Facility personnel in accordance with Arkansas Pollution Control and Ecology Commission Regulation No. 23 § 265.16 and within the same time period provide the agency with documentation demonstrating that TA's Facility is conducting weekly inspections of the areas where containers are stored.

A civil penalty of $28,000 is assessed which is conditionally suspended. The suspension and dismissal of penalties is contingent upon TA complying with the terms of the CAO. If TA fully complies with the CAO, the suspended civil penalty of $23,000 shall be dismissed by DEQ. If TA violates any terms of the CAO or fails to pay the reduced sum of $5,000, the full balance of $28,000 shall become immediately due and payable to DEQ.

A copy of the CAO can be downloaded here.