



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Akimbobola Akinyosoye
Environmental, Health, and Safety Manager
Givaudan Flavorings Corporation
100 East 69th Street
Cincinnati, Ohio 45216
Akimbobola.akinyosoye@givaudan.com

Re: **Notice of Violations**
EPA Identification No.: OHD053072815

Dear Akimbobola Akinyosoye:

On November 14, 2024, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Givaudan Flavorings Corporation ("Givaudan" or "you") located in Cincinnati, Ohio. The purpose of the inspection was to evaluate Givaudan's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste. The inspection report was emailed to you on January 10, 2025.

Information currently available to EPA suggests that Givaudan is in violation of RCRA. By this letter, EPA is extending to you an opportunity to advise the Agency, in person or in writing, of any further information EPA should consider with respect to the violations identified below.

Part 1: Storage of Hazardous Waste without a Permit or Interim Status Which Violated Section 3005 of RCRA, 42 U.S.C. § 6925(a), and State Permitting Requirements

During the inspection, EPA observed Givaudan's failure to comply with RCRA permit exemption conditions. When a hazardous waste generator fails to comply with conditions for a permit exemption, the generator is an operator of a hazardous waste treatment, storage, or disposal facility (TSDF) without a permit and is in violation of the statute and of permit application requirements for TSDFs in Ohio Admin. Code §§ 3745-50-45(A); 3745-50-41(A) and (D).

1. Hazardous Waste Accumulation

Under Ohio Admin. Code § 3745-52-34(A) and (B),¹ a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status unless the generator has been granted an extension of the 90-day period.

At the time of the inspection, a review of weekly inspection records indicated that two containers had been stored for greater than 90 days. One container in Building 21 was observed with a start date of accumulation from 5/16/24 during a weekly inspection conducted on 11/7/24 and was therefore stored for at least 176 days. Additionally, one container in Building 33 was observed with a start date of accumulation from 5/30/24 during an inspection on 9/27/24 and was therefore stored for at least 121 days. See page 7 of the inspection report.

Additionally, at the time of the inspection, one container located at the back of the bottom storage rack in Building 33 was marked with a start date of accumulation from 7/17/24 and was therefore stored for at least 121 days. See photograph 16 of the inspection report. Please note, this container was not identified in the narrative of the inspection report.

2. Date When Each Period of Accumulation Begins

Under Ohio Admin. Code § 3745-52-34(A)(2), the date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container by a large quantity generator.

At the time of the inspection, the following containers were not marked clearly and visibly with start dates of accumulation:

- One 55-gallon container labeled as “Hazardous Waste” located in the 90-day accumulation area on the west side of Building 20. See page 4 and photograph 6 of the inspection report.
- One 30-gallon container labeled as “Ken, this is an enhancer. Discard.” located in the 90-day hazardous waste accumulation area in Building 21. See pages 4-5 of the inspection report.
- Two 55-gallon drums and one 250-gallon tote located in the floor area of the 90-day hazardous waste storage area in Building 33. See page 6 and photographs 13 and 20 (for the 55-gallon drums only) of the inspection report.
- All containers, except two, stored on racks in the 90-day hazardous waste storage area in Building 33. See page 6 and photographs 14 through 24 of the inspection report. Please note, the narrative of the inspection report only identifies one container that was marked with a start date as shown in photograph 19. The second container can be observed in photograph 16.

¹ We note that effective October 5, 2020, the State of Ohio promulgated revised regulations which have not yet been authorized by EPA. EPA authorized the 2010 edition of Ohio’s hazardous waste regulations which contained a provision at Ohio Admin. Code § 3745-52-34 that remains the RCRA authorized Large Quantity Generator provision in Ohio.

3. Hazardous Waste Container Labeling

Under Ohio Admin. Code § 3745-52-34(A)(3), a large quantity generator must label or clearly mark each container holding hazardous waste with the words “Hazardous Waste.”

At the time of the inspection, many of the containers stored on racks in the 90-day hazardous waste storage area in Building 33 were not marked with the words “Hazardous Waste.” See page 6 and photographs 14-24 of the inspection report.

Part 2: Storage of Hazardous Waste without a Permit or Interim Status Which Violated Section 3005 of RCRA, 42 U.S.C. § 6925(a), State Permitting Requirements, and TSDF Requirements.

Some generator conditions for a permit exemption also refer to requirements for operating TSDFs. A generator who fails to meet a referenced requirement for a permitted TSDF is in violation not only of the statute and permit application requirements, as in Part 1, above, but also of the referenced operating TSDF requirement.

4. Training

Under Ohio Admin. Code §§ 3745-52-34(A)(4) and 3745-65-16, a large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility’s compliance with requirements of RCRA. With respect to this training program, a large quantity generator must maintain records that document that the training or job experience described above has been given to and completed by facility personnel. See, Ohio Admin. Code § 3745-65-16(D)(4).

At the time of the inspection, records documenting RCRA classroom or on-the job training were not available for review for Trey Newby, who was verbally identified as an alternate emergency coordinator for the facility. See page 7 of the inspection report.

5. Contingency Plan

Under Ohio Admin. Code §§ 3745-52-34(A)(4) and 3745-65-52(D), a facility contingency plan must list all persons qualified to act as emergency coordinator, and this list must be kept up to date.

At the time of the inspection, the facility contingency plan had not yet been updated to show the current primary and alternate emergency coordinators, Akimbobola Akinyosoye and Trey Newby, respectively.

6. Use and Management of Containers – Closed Containers

Under Ohio Admin. Code §§ 3745-52-34(A)(1)(a), 3745-52-34(C)(1)(a) and 3745-66-73(A), a large quantity generator must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

At the time of the inspection, the following containers were not closed when waste was neither being added nor removed:

- One container labeled as “Hazardous Waste” and “Used” in a hood in the GC Lab. See page 4 and photograph 2 of the inspection report.
- One container labeled as “Hazardous Waste” and “Chlorinated Waste” in a hood in the GC Lab. See page 4 and photograph 3 of the inspection report.
- One container labeled as “Hazardous Waste” in a hood in the Analytical Lab. See page 4 and photograph 4 of the inspection report.

7. Use and Management of Containers – Condition of Containers

Under Ohio Admin. Code §§ 3745-52-34(A)(1)(a) and 3745-66-71, if a container holding hazardous waste is not in good condition, a large quantity generator must transfer the hazardous waste from this container to a container that is in good condition or manage the waste in some other way that complies with the requirements of this part.

At the time of the inspection, the sides of the following plastic containers stored in the racks in Building 33 were sucking in, which may have been compromising the structural integrity of the containers:

- One white 5-gallon bucket on the bottom rack. See page 6 and photographs 14 and 21 of the inspection report.
- Two 10-gallon blue plastic carboys on the bottom rack. See page 6 and photograph 17 of the inspection report.
- One white rectangular container on the second rack. See page 6 and photograph 18 of the inspection report.

8. Container Use and Management - Weekly inspections

Under Ohio Admin. Code §§ 3745-52-34(A)(1)(a) and 3745-66-74, at least weekly, a large quantity generator must inspect areas where containers are stored looking for leaking and deterioration of containers.

At the time of the inspection, outside of the east side of Building 1, two 55-gallon drums were stored on a pallet outside of the “Quality Cold Box.” Both containers were closed, labeled as “Hazardous Waste,” and marked with a start date of accumulation. According to facility personnel, both containers held discarded samples generated in the Quality Cold Box and waste from the Labs in Building 1. The containers were not located at or near the points of generation, nor were they under the control of the operators generating the waste; however, this area was not considered a 90-day area at the time of the inspection and was not included in the weekly inspection schedule. See page 4 and photograph 5 of the inspection report.

9. Container Use and Management – Incompatible Waste

Under Ohio Admin. Code §§ 3745-52-34(A)(1)(a) and 3745-66-77(C), a large quantity generator that stores hazardous waste that is incompatible with any waste or other materials stored nearby in other containers must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

At the time of the inspection, hazardous waste was stored in racks in the 90-day storage area in Building 33. Facility personnel stated that the items in the racks were organized by compatibilities. The wastes were stored on wood-slatted pallets and the racks were grated. Containers did not appear to be segregated from one another using a dike, berm, wall, or other device. The wastes, therefore, were not protected from comingling in the event of a spill such as a catastrophic collapse of the racks.

For the violations identified in Parts 1 and 2, above, EPA recommends that Givaudan comply with the conditions instead of applying for a hazardous waste storage permit for purposes of remedying noncompliance or preventing future violations.

Part 3: Violations of Used Oil Generator and Universal Waste Handler Requirements.

10. Universal Waste Requirement

Under Ohio Admin. Code § 3745-273-13(D)(1), a small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions. Also, under Ohio Admin. Code § 3745-273-14(E), each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste – Lamps," "Waste Lamps," or "Used Lamps."

At the time of the inspection, one container of lamps located in Building 1 was neither closed nor labeled with one of the phrases "Universal Waste-Lamps," "Waste Lamps" or "Used Lamps." See page 5 and photograph 10 in the inspection report.

11. Used Oil Requirement

Under Ohio Admin. Code § 3745-279-22(C)(1), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, two 55-gallon containers of used oil, located in a clamshell storage unit outside of Building 31 were not labeled with the words, "Used Oil." See page 5 and photographs 8 and 9 of the inspection report.

Part 4: Areas of Concern

a. Aisle Space

Under Ohio Admin. Code §§ 3745-52-34(A)(4) and 3745-65-35, a large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

At the time of the inspection, numerous pallets of hazardous waste containers were double-stacked in between two four-level storage racks in the 90-day storage area in Building 33. Aisle space around and between these pallets of containers was minimal and did not allow for unobstructed movement; however, each of the containers and the area surrounding these containers could be observed with proper care. It is recommended to allow enough space for emergency crews with self-contained air packs to be able to walk through an aisle unimpeded.

b. Waste Determinations

Under Ohio Admin. Code §§ 3745-52-11 and 3745-52-40(C), a person who generates a solid waste must determine if that waste is a hazardous waste and must maintain records of those determinations.

At the time of the inspection, it was unclear if waste determinations had been completed for every container and waste stream stored in the racks in the 90-day area of Building 33. According to facility personnel, the containers in the racks had been organized according to incompatibilities, which suggest that the materials had at least a preliminary characterization. Documentation of waste determinations for these wastes was not readily available during the inspection.

EPA is requesting documentation of waste determinations for the wastes that were stored in the racks of the 90-day area of Building 33 during the inspection.

Part 5: Actions Requested

We request that you voluntarily submit a response in writing to us no later than 30 calendar days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to address the violations identified above or demonstrating why the violations have not occurred. EPA, however, reserves its right to take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order.

Please send all reports requested by this letter by electronic mail to Brenda Whitney at whitney.brenda@epa.gov and also to R5LECAB@epa.gov. The subject line of all email correspondence must include your EPA identification number - OHD053072815.

All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. If you are unable to send a response to these email addresses due to email size restrictions or other problems, contact Brenda Whitney at whitney.brenda@epa.gov or at 312-353-4796 to make additional arrangements for transmission of the response.

This letter is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks information from specific individuals or entities as part of an administrative investigation. You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to EPA in response to this letter. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

If you have questions regarding this Notice, please contact Brenda Whitney at 312-353-4796 or at whitney.brenda@epa.gov. Thank you for your prompt attention to these concerns and your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Mitch Mathews, OEPA (mitchell.mathews@epa.ohio.gov)