



Mike DeWine, Governor
Jon Husted, Lt. Governor
Laurie A. Stevenson, Director

May 7, 2020

Transmitted Electronically

Mr. Jeremy Zachrich
Zack's Recycling LLC
708 Fillmore Street
Napoleon, Ohio 43545

Re: **Zack's Recycling LLC**
Resolution of Violation (ROV)
NPDES
Henry County
8CU00393

Subject: Resolution of Violation

Dear Mr. Zachrich:

Thank you for your response to Ohio EPA Division of Surface Water's (DSW) March 12, 2020, Notice of Violation (NOV) letter. The documentation you submitted included a completed Notice of Intent (NOI) application form.

I have reviewed the documentation that you provided and have determined that Zack's Recycling LLC has now resolved all violations discovered during the February 3, 2020, inspection. To ensure that all the violations have been addressed, I have included Zack's Recycling LLC's response for each violation and its status.

Resolution of Violation

1. **ORC 6111.04 (A)(1)**: No person shall cause pollution or place or cause to be placed any sewage, sludge, sludge materials, industrial waste, or other wastes in a location where they cause pollution of any waters of the state.

OAC 3745-33-02(A): No person may discharge any pollutant or cause, permit, or allow a discharge of any pollutant without applying for and obtaining an Ohio National Pollutant Discharge Elimination System (NPDES) permit in accordance with the requirements of this chapter. Any person who holds a federal NPDES permit issued under Section 402 (a) of the act is not required to obtain an Ohio NPDES permit until its expiration date. The director shall administer and enforce permits issued under Section 402 (a) of the act within this state, and may modify the terms and conditions thereof, in accordance with division (J) of section 6111.03 of the Revised Code. This includes discharging land application systems as defined in rule 3745-42-13 of the Administrative Code.

OAC 3745-39-04(A)(1)(b): A discharge composed entirely of storm water associated with industrial activities shall obtain an Ohio NPDES permit.

OAC 3745-39-04 (G): Conditional exclusion for "no exposure" of industrial activities and materials to storm water. Discharges composed entirely of storm water are not storm water discharges associated with industrial activity if there is "no exposure" of industrial materials and activities to rain, snow, snowmelt or runoff, and the discharger satisfies the conditions in paragraphs (G)(1) to (G)(4) of this rule. "No exposure" means that all industrial materials and activities are protected by a storm-resistant shelter to prevent exposure to rain, snow, snowmelt or runoff. Industrial materials or activities include, but are not limited to, material handling equipment or activities, industrial machinery, raw materials, intermediate products, by-products, final products or waste products. Material handling activities include the storage, loading and

unloading, transportation or conveyance of any raw material, intermediate product, final product or waste product.

(1) Qualification. To qualify for this exclusion, the operator of the discharge must:

(a) Provide a storm-resistant shelter to protect industrial materials and activities from exposure to rain, snow, snow melt and runoff;

(b) Complete and sign (according to 40 C.F.R. 122.22) a certification that there are no discharges of storm water contaminated by exposure to industrial materials and activities from the entire facility, except as provided in paragraph (G)(2) of this rule;

(c) Submit the signed certification (NOE form) to the director once every five years.

(a) **Violation Description:** Zack's Recycling LLC is a regulated industry that discharges storm water. Storm water from the facility discharges off-site via overland flow into catch basins connected to a municipal separate storm sewer system. It does not have authorization under an NPDES permit and has not filed a No Exposure (NOE) certification form.

On April 21, 2020, Ohio EPA received your NOI application. Ohio EPA granted MSGP coverage and assigned the facility ID number of 2GR02138. Therefore, this violation has been resolved.

Please note that this does not preclude the Director from seeking administrative or civil penalties pursuant to Ohio Revised Code (ORC) Section 6111 for the violation) noted in the March 12, 2020, NOV letter. The decision on whether to pursue or decline to pursue such penalties regarding these violations is dependent on several factors, one of which is the company's future compliance with Ohio EPA regulatory requirements.

Should you have any questions, please contact me at (419) 373-3009 or lynette.hablitzel@epa.ohio.gov.

Sincerely,

Lynette Hablitzel

Lynette Hablitzel, P.E.
Division of Surface Water
Northwest District Office

/jlm

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Tom Poffenbarger, DSW, NWDO
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Tracking