



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.  
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769  
www.epa.state.oh.us

Ted Strickland, Governor  
Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

May 12, 2010

RE: CITY BARREL AND DRUM  
OHD 017 729 393  
CUYAHOGA COUNTY  
NOV 2

Mr. Sanford Gerard  
2881 E. 91<sup>st</sup> Street  
Cleveland, OH 44104

**CERTIFIED MAIL**

Dear Mr. Gerard:

On April 1, 2010, the Ohio Environmental Protection Agency (Ohio EPA), Division of Hazardous Waste Management, conducted a site visit at the City Barrel and Drum (City Barrel) facility located in Cleveland, Ohio. The site visit was conducted to determine the facility's compliance status with Ohio EPA's June 1, 2009 Notice of Violation letter and Ohio's hazardous waste laws (Chapter 3734 of the Ohio Revised Code (ORC), and the rules promulgated thereunder in Chapter 3745 of the Ohio Administrative Code (OAC)).

The following violation remains outstanding, City Barrel must do the following and send me the required information **within 15 days** of the date of this letter:

1. Waste Evaluation, OAC rule 3745-52-11 and General Waste Analysis, OAC rule 3745-54-13:

Any person who generates a waste, as defined in OAC rule 3745-51-02, must determine if that waste is a hazardous waste.

City Barrel failed to evaluate the contents of at least 77 containers identified by Ohio EPA during the May 19, 2009 CEI. In addition, the facility must evaluate the contents of drum liners, spent paint booth filters, and solid (bluish powder) material on the ground. The wastes were scattered throughout the property. A copy of Ohio EPA's photograph and container inventory log was provided to you.

On December 1, 2009, you submitted documentation that states 26 of the 77 containers had been sent off site along with 4 newly identified containers.

Since receipt of Ohio EPA's June 1, 2009 Notice of Violation letter, the facility has submitted the following:

- Manifest #004309740JJK, dated 5/29/09, 11 drums (D001, D022, D035, F002, F003, and F005 hazardous waste) and 5 drums of water;
- Manifest #004309949JJK, dated 6/17/09, 21 drums (D001, D022, D035, F002, F003, and F005 hazardous waste);
- Manifest #005830419JJK, dated 11/19/09, 10 drums (D001, D022, D035, F002, F003, and F005 hazardous waste);

- Manifest #005823268JJK, dated 3/31/10, 5 drums (D001, D022, D035, D039, D040, F002, F003, and F005 hazardous waste). Note: this information was obtained from Chemical Solvents records; and
- Manifest #005823429JJK, dated 4/18/09, 7 drums (D001, D022, D035, F002, F003, and F005 hazardous waste).

**In order to abate this violation, City Barrel must evaluate the identified wastes, and submit the following information:**

- **Waste evaluation information (Obtain from Chemical Solvents and submit for all manifests in 2009 and 2010);**
- **Identify how each waste stream will be managed and disposed;**
- **Identify when and how the wastes were generated; and**
- **Submit copies of all disposal manifests.**

**Note: New Violation**

2. Unlawful Storage and Disposal of Hazardous Waste, ORC § 3734.02(E)&(F):

No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to a hazardous waste facility operating under a permit issued in accordance with this chapter or those listed in ORC § 3734.02(F)(2) through (5).

OAC rule 3745-51-07 sets forth criteria that a container or inner liner must meet in order to be “empty.” This rule includes the requirements for rendering a container or a removed inner liner empty. Sometimes a container that meets the criteria described in this rule is called a “Resource Conservation and Recovery Act (RCRA) empty” container. When the container or inner liner stored a material that exhibits a characteristic of a hazardous waste, a commercial chemical product listed in the hazardous waste rules, or a listed or characteristic hazardous waste, you must apply a two step test to determine when the container or inner liner is empty:

- (A) First remove all material from the container or inner liner using methods that are commonly employed (pouring, pumping, aspirating, etc.); and
- (B) Ensure that no more than one inch of material remains in the container or inner liner.

If the container or inner liner held an acutely hazardous waste or commercial chemical product listed as an acutely hazardous waste, then it must meet the following conditions to be considered empty:

- the container or inner liner has been triple rinsed using a capable solvent (which may be water); or

- the container or inner liner has been cleansed by another equivalent method;  
or
- the inner liner has been removed.

During the May 19, 2009 inspection, you indicated the facility accepts containers with waste in them. This waste is drained or dumped out into another drum that is later disposed of at Chemical Solvents, Inc. This writer informed you that the facility is prohibited from accepting drums with hazardous waste contents and OAC rule 3745-51-07 was explained to you.

During an August 27, 2009 site visit, you indicated the facility was still accepting containers with waste in them. Ohio EPA's June 1, 2009 NOV letter and OAC rule 3745-51-07 was explained to you during the inspection.

On September 9, 2009, Ohio EPA received a letter from you that indicated the facility would: show a copy of OAC rule 3745-51-07 to its customers that notes City Barrel cannot accept heavy drums; and if heavy drums are accepted, the facility would return them to the customer.

During a November 18, 2009 telephone call, you indicated the facility was still accepting containers with waste in them and not rejecting them. This writer informed you that the facility is prohibited from accepting drums with hazardous waste contents and OAC rule 3745-51-07 was explained to you.

During an April 1, 2010 site visit, you indicated the facility was still accepting containers with waste in them and not rejecting them. You stated the five drums of hazardous waste that was sent to Chemical Solvents on March 31, 2010 for disposal contained waste generated from contents of incoming drums. This writer informed you that the facility is prohibited from accepting drums with hazardous waste contents and OAC rule 3745-51-07 was explained to you.

**City Barrel is prohibited from accepting and storing hazardous waste (non-empty hazardous waste drums) from off-site generators. Please be aware that containers not complying with OAC rule 3745-51-07 must be immediately rejected and lawfully shipped off-site.**

**In order to demonstrate compliance, the facility immediately cease accepting drums with hazardous waste contents and must submit a plan which describes in detail how City Barrel will prevent acceptance and storage of containers that are not empty as specified in OAC rule 3745-51-07.**

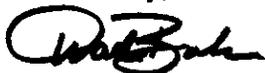
**Since you have violated ORC § 3734.02(E)&(F), your facility is subject to all applicable general facility standards found in OAC Chapters 3745-54 and 3745-55. Additionally, at any time Ohio EPA may assert its right to have you begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.**

Concerns:

3. Please submit a copy of the hazardous waste manifest dated 3/31/10.
4. Please inform Ohio EPA what was contained in the seven 55-gallon drums that were sent off-site for disposal on 4/18/10, manifest #005823429.
5. Please submit an updated container inventory log.

**Please be aware that continued instances of non-compliance may subject the facility to escalated enforcement action.** Should you have any questions, please feel free to call me at (330) 963-1278. You can find copies of the rules and other information on the DHWM's web page at <http://www.epa.ohio.gov/dhwm>.

Sincerely,



Wade Balser  
District Representative  
Division of Hazardous Waste Management

WB:ddw

cc: Natalie Oryshkewych, DHWM, NEDO  
ec: Nyall McKenna, DHWM, NEDO  
Harry Sarvis, DHWM, CO

**NOTICE:**

Please be aware that additional violations may be cited upon review of the requested documentation. Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all applicable regulations.