



State of Ohio Environmental Protection Agency

Northeast District Office

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Twinsburg, Ohio 44087

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

May 13, 2010

**RE: SR PRODUCTS AND SIMON ROOFING
COMPLAINT # 7283
NOTICE OF VIOLATION**

Benita Thompson
70 Karago Ave.
Youngstown, OH 44512

Dear Ms. Thompson:

The Ohio EPA Division of Hazardous Waste Management conducted an inspection of SR Products and Simon Roofing located at 13311 Union Avenue, Cleveland, Ohio 44120 on May 3, 2010. Ohio EPA was represented by me and Patricia Natali, and SR Products/Simon Roofing was represented by you, AJ Turner, and Phil. The purpose of the inspection was to investigate a complaint and to determine if SR Products/Simon Roofing was in compliance with Ohio's hazardous waste and used oil laws as found in Chapter 3734 of the Ohio Revised Code (ORC) and Chapter 3745 of the Ohio Administrative Code (OAC). Twenty two photographs were taken during the inspection. If you provide me with an e-mail address I can e-mail these to you.

This letter will document any violations and concerns found and outline what you need to do to correct them. A written response to these issues is required within 30 days of the date of this letter. Please contact me when you receive this letter so that we can schedule a follow up inspection of this site.

The complaint was filed because of a spill response conducted by Ohio EPA's Emergency Response Section in December 2009. A copy of their report from the spill response was given to you during our inspection. The Emergency Response Section found a leaking roll off box in December 2009. We also found a leaking roll off box during our inspection. The roll off, stored outside along the fence line adjacent to Union Ave., was leaking a thick, black material out of the bottom of the box's back door/gate. You suspected the material was a roofing tar. As I told you during the inspection, SR Products/Simon Roofing should put an absorbent such as oil dry inside the box at the bottom edge of the door/gate in an effort to stop the leak. Please include in your response what actions were taken regarding this leak. Please also inform me as to whether this roll off box has been shipped off site and provide a copy of the shipping paper/ pickup receipt if it has. In the future, leaks could be prevented by some or all of the following: 1) don't put any liquids in the roll off, 2) use a plastic liner and/or oil dry in the roll off before filling, 3) cover the roll off if stored outside, 4) and/or store the roll off inside.

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As I told you during the inspection, the released material must be removed and properly disposed. Please call me when this is scheduled (if it is not already done) so that I have the opportunity to be present for the work. Please also take photographs of this work as I may not be able to be there for it.

We saw an open 5-gallon bucket with liquid in it stored outside on a pallet. You said this will be moved inside while it is determined how it will be disposed. Please send me an update on this material.

We saw areas outside that had contaminated gravel both with a silver color material and with black material. This contamination must be removed and properly disposed. As mentioned above, call me when the work is scheduled and take photographs. Include in your response, a description of what you believe these materials are, including Material Safety Data Sheets (MSDS) if they are available.

Inside the building were many containers and tanks. You said some of this material will be used in roof installation and repair by Simon Roofing. You also said that SR Products no longer manufactures material at this location and that some of this material will be transported to its new manufacturing plant in Youngstown, Ohio. Much of this material appeared to be waste because of the condition of the containers and how it was stored. For example, some of the containers holding liquids were open. In addition, you could not provide an inventory or other descriptions of how all the materials will be used.

OAC rule 3745-51-02(F) states (in part) that respondents in actions to enforce regulations adopted under Chapter 3734. of the Revised Code (hazardous waste rules) who raise a claim that a certain material is not a waste must demonstrate that there is a known market of disposition for the material. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste. In addition, owners or operators of facilities claiming they actually are recycling materials must show that they have the necessary equipment to do so.

You must submit a chemical inventory of the materials in the building to me. Please also submit a diagram or floor plan of the buildings if available. At least initially, this inventory can exclude the materials that will be used in the Simon Roofing installation and repair operation as long as those materials are stored separately from the other materials. The inventory should indicate whether each material is a waste or not. If it is not a waste, indicate how it will be used.

For any material that is a waste, OAC rule 3745-52-11 requires you to determine if it is a hazardous waste. If you provide information about the waste to me (such as MSDS or analytical data), I can help with this determination. The following documents are enclosed which offer more information about this:

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Identifying Your Hazardous Waste, 2006

<http://www.epa.ohio.gov/portals/41/sb/publications/identifyingwaste.pdf>

OAC 3745-51-21 to 24 characteristic hazardous waste

OAC 3745-51-31 listed hazardous waste

http://www.epa.ohio.gov/dhwm/laws_regs.aspx

Use of Generator Knowledge in Complying with OAC 3745-52-11, 2005

<http://epa.ohio.gov/portals/32/pdf/GeneratorKnowledge6.pdf>

If any of the required information is confidential because it is a trade secret, you should submit it following the procedures listed in OAC 3745-50-30 and 50-29. (copy enclosed.)

The Cessation of Regulated Operations (CRO) rules are designed to ensure that companies that shut down do not leave hazardous chemicals behind. Companies that were required to submit hazardous chemical reports to the State Emergency Response Commission (SERC) are subject to these rules. A company is required to submit these reports if both of the following apply:

1. You are subject to the OSHA Hazard Communication Standard; and
2. You use, produce or store a hazardous chemical or extremely hazardous substance in excess of the threshold quantity.

Based on the containers and tanks observed, it is possible SR Products was required to submit such reports. Please send me information showing whether or not this was the case. More information regarding these rules can be found in the following document which is enclosed:

Cessation of Regulated Operations (CRO) Manual 2007

http://epa.ohio.gov/portals/32/pdf/CRO_Manual.pdf

Fluorescent lamps and other types of lamps contain mercury. Waste lamps can be managed as universal wastes or as hazardous wastes. More information regarding the universal waste rules can be found in the following document which is enclosed:

Ohio's Universal Waste Rules: Are You Handling Used Lamps Correctly? 2008

<http://www.epa.ohio.gov/portals/41/sb/publications/Lampcompliancechecklist.pdf>

The following violations and concerns were found:

1. OAC rule 3745-273-13 (D) - Universal waste lamp containers.
This rule requires universal waste lamps to be in closed containers or packages that are structurally sound and adequate to prevent breakage.

SR Products violated this rule by having waste fluorescent lamps that were not in a closed container or package. You must correct this violation and provide documentation of that to me.

2. OAC rule 3745-273-14 (E) - Universal waste lamp labeling.
This rule requires that containers of universal waste lamps be labeled as Universal Waste - Lamps, Waste Lamps, or Used Lamps.

SR Products violated this rule by not having its waste lamps labeled as required. You must correct this violation and provide documentation of that to me.

3. OAC rule 3745-273-15(A) - Universal waste accumulation time limits.
This rule allows the accumulation of universal waste for no longer than one year unless it is solely for the purpose of accumulation of such quantities to facilitate proper recovery or treatment.

Please state how you will comply with this rule. In general, there is no need to ship boxes of waste lamps that are not full even if it takes longer than a year to fill it.

4. OAC rule 3745-273-15(C) Universal waste accumulation time limits.
This rule requires that you be able to demonstrate the length of time that a universal waste has been accumulated.

Please state how you will comply with this rule.

Other information and suggestions:

- Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) provides compliance and pollution prevention assistance on environmental issues (including sources of funding) related to air, land, and water. They can be contacted at (800) 329-7518, or <http://www.epa.ohio.gov/Default.aspx?alias=www.epa.ohio.gov/ocapp>.
- ENERGY STAR is a government-backed program helping businesses and individuals protect the environment through superior energy efficiency. Their website is at: <http://www.energystar.gov/>.
- The Clean Air Resource Center offers help in understanding EPA air quality requirements. In addition, if your business is required to purchase new equipment, they can offer better-cost financing with special tax incentives. Their phone number is (800) 225-5051 and website is <http://www.ohioairquality.org/>.

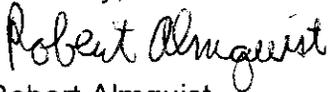
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- The Division of Hazardous Waste Management has created an electronic news service to provide you with updates related to hazardous waste activities in Ohio. You can find more information and sign up at: http://ohioepa.custhelp.com/cgi-bin/ohioepa.cig/php/enduser/doc_serve.php?2=subscriptionpage.
- Ohio Bureau of Workers' Compensation has an OSHA On-Site Consultation service which includes free on-site safety inspections and consultation, safety program assistance, and safety and hygiene training or seminars. More information can be found at: <http://www.ohiobwc.com/employer/programs/safety/SandHOSHAOnSite.asp>.

You can find copies of the regulations and other information on the Division of Hazardous Waste Management web page at <http://epa.ohio.gov/dhwm>.

If you have any questions, please contact me at (330) 963-1217, or robert.almquist@epa.state.oh.us.

Sincerely,



Robert Almquist
Division of Hazardous Waste Management

RA:cl
Enclosures

ec. Frank Popotnik, DHWM, NEDO
Harry Sarvis, DHWM, CO
Natalie Oryshkewych, DHWM, NEDO
Reggie Brown, DERR, NEDO
Patricia Natali, DHWM, NEDO

cc: Marlene Kinney, DHWM, NEDO

Notice:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your facility from its obligation to comply with all applicable regulations.

SMALL QUANTITY UNIVERSAL WASTE HANDLER REQUIREMENTS – BATTERIES AND LAMPS

Large Quantity Universal Waste Handler (LQUWH) = 5,000 Kg or more

Small Quantity Universal Waste Handler (SQUWH) = 5,000 Kg or less

PROHIBITIONS

- | | | |
|----|---|---|
| 1. | Did the SQUWH dispose of universal waste? [3745-273-11(A)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 2. | Did the SQUWH dilute or treat universal waste, except when responding to releases as provided in OAC rule 3745-273-17 or managing specific wastes as provided in OAC rule 3745-273-13? [3745-273-11(B)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |

WASTE MANAGEMENT AND LABELING/MARKING

UNIVERSAL WASTE BATTERIES

- | | | |
|----|--|---|
| 3. | Are batteries that show evidence of leakage, spillage or damage that could cause leaks contained? [3745-273-13(A)(1)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 4. | If batteries are contained, are the containers closed and structurally sound, compatible with the contents of the battery and lack evidence of leakage, spillage or damage that could cause leakage? [3745-273-13(A)(1)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 5. | Are the casings of the batteries breached, not intact, or open (except to remove the electrolyte)? [3745-273-13(A)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 6. | If the electrolyte is removed or other wastes generated, has it been determined whether the electrolyte or other wastes exhibit a characteristic of hazardous waste? [3745-273-13(A)(3)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| | a. If the electrolyte or other waste is characteristic, is it managed in compliance with OAC Chapters 3745-50 through 3745-69? [3745-273-13(A)(3)(a)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| | b. If the electrolyte or other waste is not hazardous, is it managed in compliance with applicable law? [3745-273-13(A)(3)(b)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 7. | Are the batteries or containers of batteries labeled with the words "Universal Waste - Batteries" or "Waste Battery(ies)" or "Used Battery(ies)"? [3745-273-14(A)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |

UNIVERSAL WASTE LAMPS

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|----|---|--|
| 8. | Does the SQUWH contain lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with contents of the lamps? Are containers or packages closed and do they lack evidence of leakage, spillage or damage that could cause leakage? [3745-273-13(D)(1)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| 9. | Are lamps that show evidence of breakage, leakage or damage that could cause a release of mercury or hazardous constituents into the environment immediately cleaned up? Are they placed into a container that is closed, structurally sound, compatible with the contents of the lamps, and lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or hazardous waste constituents to the environment? [3745-273-13(D)(2)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |

NOTE: Treatment (such as crushing) by a UWH is prohibited under this rule unless the facility is permitted for such activities [3745-273-31(B)]. A generator crushing lamps must manage lamps according to hazardous waste rules (OAC Chapter 3745-52). Lamp crushing is a form of generator treatment (OAC rule 3745-52-34). Crushed lamps must be transported by a registered hazardous waste transporter to a permitted hazardous waste facility using a hazardous waste manifest.

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|-----|--|--|
| 10. | Are the lamps or containers or packages of lamps labeled with the words "Universal Waste - Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"? [3745-273-14(E)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
|-----|--|--|

ACCUMULATION TIME		
11.	Is the waste accumulated for less than one year? [3745-273-15(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	a. If not, is the waste accumulated over one year in order to facilitate proper recovery, treatment or disposal? (Burden of proof is on the handler to demonstrate) [3745-273-15(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
<i>NOTE: Accumulation is defined as date generated or date received from another handler.</i>		
12.	Is the handler able to demonstrate the length of time the universal waste has been accumulated? [3745-273-15(C)] If yes, describe below:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
EMPLOYEE TRAINING		
13.	Are employees who handle or have the responsibility for managing universal waste informed of waste handling/emergency procedures, relative to their responsibilities? [3745-273-16]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
RESPONSE TO RELEASES		
14.	Are releases of universal waste and other residues immediately contained? [3745-273-17(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
15.	Is the material released characterized? [3745-273-17(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
16.	If the material released is a hazardous waste, was it managed as required in OAC Chapters 3745-50 through 3745-69? (If the waste is hazardous, the handler is considered the generator of the waste and is subject to OAC Chapter 3745-52) [3745-273-17(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
OFF-SITE SHIPMENTS		
<i>NOTE: If a SQUWH self-transport waste, then the handler must comply with the Universal Waste transporter requirements.</i>		
17.	Are universal wastes sent to either another handler, destination facility or foreign destination? [3745-273-18(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
18.	Is the handler aware of DOT requirements for packaging and shipping? If no, make aware of 49 CFR 171-180.	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
19.	Prior to shipping universal waste off-site, does the originating handler ensure that the receiver agrees to receive the shipment? [3745-273-18(D)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
20.	Has the originating handler ever had an off-site shipment rejected by another handler or destination facility?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	a. If yes, did the originating handler receive the waste back or agree to where the shipment was sent? [3745-273-18(E)(2)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
21.	If a handler rejects a partial or full load from another handler, does the receiving handler contact the originating handler and discuss and do <u>one of the following</u> :	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	a. Send the waste back to the originating handler or send the shipment to a destination facility (If both the originating and receiving handler agree)? [3745-273-18(F)(2)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
22.	If the handler received a shipment of hazardous waste that was not a universal waste, did the SQUWH immediately notify Ohio EPA? [3745-273-18(G)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
EXPORTS		
23.	Is waste being sent to a foreign destination? If so:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

	a. Does the small quantity handler comply with primary exporter requirements in OAC rules 3745-52-53, 3745-52-56, and 3745-52-57? [3745-273-20(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	b. Is waste exported only upon consent of the receiving country and in conformance with the U.S. EPA "Acknowledgment of Consent" as defined in OAC rules 3745-52-50 to 3745-52-57? [3745-273-20(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	c. Is a copy of the U.S. EPA "Acknowledgment of Consent" provided to the transporter? [3745-273-20(C)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>