



State of Ohio Environmental Protection Agency

Northeast District Office

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

August 14, 2007

RE: UNIVERSAL MATERIALS, INC.  
OHD 980 792 600  
SUMMIT COUNTY  
3<sup>rd</sup> NOTICE OF VIOLATION

Mark Tussing  
Owen's-Illinois  
One Michael Owen's Way  
Perrysburg, OH 43551-2999

**CERTIFIED MAIL**

Dear Mr. Tussing:

On June 25, 2007, Ohio EPA received your response to our June 6, 2007 Notice of Violation (NOV). Please be advised that the violation cited in the letter remains outstanding:

**1. Establishment of Unlawful Treatment, Storage, Disposal facility, or Transportation of Hazardous Waste ORC 3734.02(E) and (F)**

On December 4, 1986, The U.S. EPA sent Universal Material, Inc. (UMI) a letter citing the applicability of 40 CFR 261.2(e)(1)(I) which is equivalent to Ohio Administrative Code (OAC) rule 3745-51-02(E)(1)(a). Additionally, on February 22, 1996, Ohio EPA concurred that the process at UMI was not reclamation. However, the letter cautioned UMI if its handling of the magchrome brick changed, the company would need to evaluate those changes and determine if the bricks would be wastes subject to the hazardous waste laws. Since the rule only provides a *conditional* exclusion for secondary materials that are recycled into products, only materials that are recycled are excluded. Therefore, since the released material was not used to make a product, it is not afforded this exclusion. Any materials that are not recycled are wastes and are not excluded.

Whether or not UMI intended to release the materials, is irrelevant. The materials were released in a manner that constitutes disposal per OAC rule 3745-51-02(B)(1).

**Since UMI violated ORC §3734.02(E) and (F), UMI shall demonstrate efforts toward abatement of these violations by submitting a closure plan for approval pursuant to OAC rules 3745-55-11 through 3745-55-20 and OAC rules 3745-55-42 through 3745-55-47 as explained in Ohio EPA's April 12, 2007 and June 6, 2007 Notices of Violation. Additionally, UMI is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55, including facility-wide cleanup pursuant to the Corrective Action process under Ohio law.**

Also, during my initial inspection on March 28, 2007, I found and informed you (per my April 12, 2007 NOV) of areas where refractory brick materials were being managed. You responded in your May 11, 2007 letter that you had removed this material and managed it appropriately. Please forward me the evaluation results (analytical/evaluation/characterization) of the waste refractory brick material and information where the material was ultimately managed/disposed.

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Also, in 2002 you sent 549 tons of hazardous magchrome firebrick fines to Envirite of Ohio, Inc. Please describe how this material was generated and how and where it was managed at your facility.

Failure to list specific deficiencies or violations in this communication does not relieve Owen's-Illinois from the responsibility of complying with all applicable Ohio EPA laws and regulations. Please be advised that present or past instances of non-compliance can continue as subjects of pending or future enforcement actions.

Please feel free to contact me at (330) 963-1170 if you have any questions.

Sincerely,



Edward J. D'Amato  
Environmental Specialist  
Division of Hazardous Waste Management

EJD:ddw

cc: Ralph McGinnis, DHWM, CO  
Harry Sarvis, DHWM, CO  
Jeremy Carroll, DHWM, CO  
ec: Frank Popotnik, DHWM, NEDO  
Robert Almquist, DHWM, NEDO  
John Palmer, DHWM, NEDO