



State of Ohio Environmental Protection Agency

**Northwest District Office**

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

Re: Ultimate Industries  
Small Quantity Generator  
OHR 000 113 423  
Erie County  
Notice of Violation

July 13, 2007

Mr. James W. Hart  
Flynn, Py & Kruse Company, LPA  
165 East Washington Road  
Sandusky, Ohio 44870

Re: Mr. Thomas Roberts, Ultimate Industries, 1702 Campbell Street, Sandusky, Ohio 44870

Dear Mr. Hart:

On May 8, 2007, Chad Delbecq, Rick Hassinger, Kara Reynolds and I inspected and conducted sampling of waste at Ultimate Industries' (UI) facility in Sandusky, Ohio. We were allowed access and accompanied by Mr. Thomas Roberts, former operator/owner of UI. We inspected UI as requested by the Ohio Attorney General's Office to determine its compliance with Ohio's hazardous waste laws as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC). This letter will explain our findings.

UI ceased regulated operations in 2004. UI did not notify the Ohio EPA regarding its cessation of regulated operations. UI manufactured decorative landscaping rocks and waterfalls. The facility generated waste isocyanate, urethane resins and polyurethane. It also generated hazardous waste paint/solvent (D001, D035, F003, F005). On August 16, 2002, Ohio EPA, Division of Hazardous Waste Management (DHWM) conducted a comprehensive compliance evaluation inspection. As a result, UI was cited for failure to evaluate the waste being stored in 20 unlabeled drums. Eight of the 20 drums were later identified as containing hazardous waste. UI hazardous waste present at the time exceeded 1,000 kg or 2,200 lbs., therefore, UI was cited for additional violations for operating as a small quantity generator and was ordered to dispose of all the waste as soon as possible. Regularly, UI operated as a conditionally exempt small quantity generator of hazardous waste although, if hazardous waste present at this time exceeds 1,000 kg or 2,200 lbs., you must comply with the Ohio hazardous waste small quantity generator regulations.

We found the following violations of Ohio's hazardous waste laws. In order to correct these violations, you must do the following and send me the required information **within 15 days** of your receipt of this letter:

1. **ORC Section 3734.02(E) & (F), Storing/Treating/Disposing of Hazardous Waste:**

During my inspection of the facility, I discovered that UI was storing hazardous waste for longer than 180 days without the required hazardous waste permits in violation of ORC §3734.02(E) & (F). UI ceased regulated operations sometime during 2004; therefore, Ohio EPA also considers these hazardous wastes to be abandoned. Ohio EPA sampled two drums, which we labeled as UI-001 and UI-002, that were located in the cage area by the loading dock. One of these drums had a hazardous waste label (D001, D035, F003, F005). The other container was a 55-gallon blue plastic drum with a Sherwin-Williams P63W C0031 white in-mold release paint waste label. Sample results indicated exceedance of hazardous waste levels for methyl ethyl ketone and flash point (D001). During our inspection, we identified six drums with hazardous waste labels (D001, D035, F003, F005) that appeared to be full; therefore, it seems that UI has accumulated more than 1,000 kg (2,200 lbs.) of hazardous waste on-site and thus, it becomes subject to regulations as a small quantity generator of hazardous waste, which only allows the generator to store hazardous waste on site for 180 days or less. UI must make arrangements to immediately dispose of these drums and any other drums positively identified as hazardous waste.

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

**UI must submit to me a written plan of how you are planning to handle your hazardous waste currently present at the site. Please include information such as waste codes, transporter, disposal facility, etc.**

2. **OAC Rule 3745-52-11, Waste Evaluation:** Any person who generates a waste must evaluate the waste to determine if the waste is a hazardous waste in accordance with the criteria set forth in OAC Chapter 3745-51.

UI failed to properly evaluate the contents of several drums of waste left at the facility since ceasing regulated operations. The drums observed during the inspection are described as follows:

<u>Quantity</u>	<u>Description/Labeling</u>	<u>Location</u>
(10) Metal 55-gallon drums	Marked Empty	Outside cage
(4) 5-gallon buckets	NA	Outside cage
(2) Cylinders	LP Gas	Outside cage

<u>Quantity</u>	<u>Description/Labeling</u>	<u>Location</u>
(2) 55-gallon plastic drums	Blue, Sherwin-Williams release paint waste P63W C0031	Inside locked cage ✓
(2) 55-gallon drums of waste component A and B Isocyanate (solidified)	NA	Inside locked cage
(2) 55-gallon drums of Arcco B, Polyol Resin as stated by label	NA	Inside locked cage
(1) partially empty 55-gallon drum of Sherwin-Williams paint	NA	Inside locked cage
(6) 55-gallon drums	Hazardous waste labels coded D001, D035, F003, F005	Inside cage area ✓
(10) 55-gallon drums	Unmarked	Inside cage area
(1) 55-gallon drum	Waste El Paco L2653 WCL water base enamel	Basement
(9) 55-gallon drums of waste Isocyanate Part A as stated by label	Solidified due to age	Basement
(6) 55-gallon drums of waste Isocyanate Part B as stated by container label	Solidified due to age	Basement
(2) 55-gallon drums	Partially full of paint waste; D001, D035, F003, F005	Basement
(1) 55-gallon drum	Fiberglass resin	Third Floor
(1) 55-gallon drum	Sherwin Williams F78 T00104 Cleaner lacquer	Third Floor
(1) 55-gallon drum	El Paco White Vinyl/Lacquer L2470PLA	Third Floor

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On May 8, 2007, Ohio EPA sampled two drums being stored inside the cage area near the loading docks. These two drums were selected due to the high VOC reading detected with a Photo Ionization Detector. Analytical results indicated that the samples were ignitable (D001, <140° F) and exceeded the hazardous waste limits for methyl ethyl ketone (D001, D035, F003, F005). Therefore, UI must make arrangements to dispose of these drums properly. In the mean time, the drums should be properly dated, labeled as hazardous waste, and stored.

UI must immediately evaluate these wastes to determine if they are a listed or characteristic hazardous waste as required by OAC 3745-52-11.

UI has the choice of evaluating the waste by generator knowledge or by sampling. If UI chooses to sample the waste, please send me a detailed plan explaining how you will conduct the sampling and notify me two weeks ahead of time so that I or an Ohio EPA representative can be onsite to witness the sampling or collect split samples if necessary.

Ohio EPA will use the data you provide, in addition to other documentation, to make regulatory decisions concerning the wastes tested. The data you submit should be reviewed using a data review process, referred to as data validation, to confirm the validity of your data prior to submission. Data validation includes a review of the following components: laboratory test methods, laboratory data completeness, documentation of holding time(s), chain(s) of custody, and quality assurance/quality control (QA/QC) data. To confirm the validity of your data, you may use Ohio EPA's tier 1 data validation plan review form which can be obtained from Ohio EPA's web page at [http://www.epa.state.oh.us/dhwm/tier\\_i\\_data\\_validation\\_manual.html](http://www.epa.state.oh.us/dhwm/tier_i_data_validation_manual.html).

Ohio EPA may request the documentation needed to confirm the validity of the data submitted.

Please submit a brief narrative of each sampling event which includes: sampling techniques used to obtain the sample and a description of how this sample was determined to be a representative sample of the waste tested.

Once UI has made this determination, you must send me the documentation.

### **Additional Violations**

As a small quantity generator, UI has violated the following additional hazardous waste requirements. Specific actions to abate these violations are not necessary at this time. The immediate removal of all hazardous waste that is stored at the site will be sufficient to demonstrate abatement of these additional violations:

- 3. OAC Rule 3745-52-34(D)(4) - Marking and dating containers.**

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4. **OAC Rule 3745-52-34 - Posting of emergency information by the telephone.**
5. **OAC Rule 3745-65-32(A)(B)(C)(D) - Providing emergency equipment.**
6. **OAC Rule 3745-65-33 - Emergency equipment inspections.**
7. **OAC Rule 3745-65-35 - Adequate aisle space.**
8. **OAC Rule 3745-66-74(B) - Accumulation area inspections conducted and recorded weekly.**

Should you have any questions, please feel free to call me at (419)373-3015. You can find copies of the rules and other information at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Edgar V. Pulido  
Division of Hazardous Waste Management

/cs

pc: Colleen Weaver, DHWM, NWDO  
Cindy Lohrbach, DHWM, NWDO  
~~DHWM, NWDO File~~

ec: Ed Pulido, DHWM, NWDO

<p><b>NOTICE:</b> 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.</p>
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