



State of Ohio Environmental Protection Agency

Southeast District Office

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Chris Korleski, Director

September 5, 2008

**TUSCARAWAS COUNTY
BAERLOCHER
DHWM/SEDO
OHR 000 031 567**

John Dallatore
Baerlocher
3676 Davis Road N.W.
Dover, Ohio 44622

Dear Mr. Dallatore:

I received your responses to my May 9, 2008 Notice of Violation (NOV) letter on August 8, 2008 and September 4, 2008. The documentation you submitted included a copy of the facility's contingency plan.

My review of this documentation reveals that Baerlocher has adequately demonstrated abatement of the following violations discovered during the February 25, 2008 inspection:

1. **Ohio Revised Code 3734.02 (E) and (F), Prohibitions**
3. **Purpose and implementation of contingency plan, OAC rule 3745-65-51(A)**

However, Baerlocher remains in violation of the following hazardous waste laws:

6. **Design and installation of new tank systems or components, 3745-66-92 (A):**
Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified, registered professional engineer in accordance with paragraph (D) of rule 3745-50-42 of the Administrative Code attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include all elements of rule 3745-66-92 (a copy of this rule is attached for your convenience).

During the inspection, Baerlocher could not present a tank assessment for hazardous waste tanks 231T, 214T and 341 for review. The tank certification that was submitted did not cover the entire tank system. Ancillary equipment (such as piping, fittings, flanges, valves, and pumps) associated with these tank systems must be certified by an independent, qualified, registered professional engineer. This assessment must be submitted to this office for review.

Ohio EPA understands that work is being completed on the tank systems to comply with this rule and that documentation will be submitted as soon as the work is completed. As required by the Director's Final Findings and Orders dated July 10, 2008, the tank assessment documentation must be submitted to Ohio EPA by September 10, 2008.

Based on Ohio EPA's review of the tank certification document, it has been determined that Baerlocher is in violation of the following:

- (1) **Containment and detection of releases, OAC rule 3745-66-93(A) and (B)**: (A) In order to prevent the release of hazardous wastes or hazardous constituents to the environment, secondary containment that meets the requirements of this rule must be provided for all new tank systems or components, prior to their being put into service. (B) Secondary containment systems must be (1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, ground water, or surface water at any time during the use of the tank system; and (2) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

During the February 25, 2008 inspection, Baerlocher could not provide any information on the tank systems. After review of the tank certification submitted on April 28, 2008, it appears that the tank systems do not have secondary containment as required by this rule. Baerlocher must submit a plan which outlines how secondary containment will be installed on the tank systems which meets the requirements of this rule. This violation will remain outstanding until secondary containment is installed on the tank systems.

Ohio EPA understands that work is being completed on the tank systems to comply with this rule and that documentation will be submitted as soon as the work is completed.

- (2) **Containment and detection of releases, OAC rule 3745-66-93(C)**: To meet the requirements of paragraph (B) of this rule, secondary containment systems must be, at a minimum: (1) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed, climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic); (2) Placed on a foundation or base capable of providing support to the secondary containment system and resistance to pressure gradients above and below the system and capable of preventing failure due to settlement, compression, or uplift; (3) Provided with a leak detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within twenty-four hours, or at the earliest practicable time if the existing detection technology or site conditions will not allow detection of a release within twenty-four hours; (4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must

be removed from the secondary containment system within twenty-four hours, or in as timely a manner as is possible to prevent harm to human health or the environment, if removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four hours.

During the February 25, 2008 inspection, Baerlocher could not provide any information on the tank systems. After review of the tank certification submitted on April 28, 2008, it appears that the tank systems do not have secondary containment as required by this rule. Baerlocher must submit a plan which outlines how secondary containment will be installed on the tank systems which meets the requirements of this rule. This violation will remain outstanding until secondary containment is installed on the tank systems.

Ohio EPA understands that work is being completed on the tank systems to comply with this rule and that documentation will be submitted as soon as the work is completed.

- (3) **Containment and detection of releases, OAC rule 3745-66-93(D):** Secondary containment for tanks must include one or more of the following devices: (1) A liner (external to the tank); (2) A vault; (3) A double-walled tank; or (4) An equivalent device as approved by the director.

During the February 25, 2008 inspection, Baerlocher could not provide any information on the tank systems. After review of the tank certification submitted on April 28, 2008, it appears that the tank systems do not have secondary requirement as required by this rule. Baerlocher must submit a plan which outlines how secondary containment will be installed on the tank systems which meets the requirements of this rule. This violation will remain outstanding until secondary containment is installed on the tank systems.

Ohio EPA understands that work is being completed on the tank systems to comply with this rule and that documentation will be submitted as soon as the work is completed.

- (4) **Containment and detection of releases, OAC rule 3745-66-93(F):** Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing double-walled piping) that meets the requirements of paragraphs (B) and (C) of this rule, except for: (1) Aboveground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis; (2) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis; (3) Sealless or magnetic coupling pumps and sealless valves that are visually inspected for leaks on a daily basis; and (4) Pressurized aboveground piping systems with automatic shut-off devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure-actuated shut-off devices) that are visually inspected for leaks on a daily basis.

During the February 25, 2008 inspection, Baerlocher could not provide any information on the tank systems. After review of the tank certification submitted on April 28, 2008, it appears that the tank systems do not have ancillary secondary requirement as required by this rule. Baerlocher must submit a plan which outlines how secondary containment

John Dallatore
Baerlocher
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will be installed on the tank systems which meets the requirements of this rule. This violation will remain outstanding until ancillary secondary containment is installed on the tank systems.

Ohio EPA understands that work is being completed on the tank systems to comply with this rule and that documentation will be submitted as soon as the work is completed.

Should you have any questions regarding the contents of this letter, feel free to contact me at 740-380-5256.

Sincerely,



Melody Stewart
District Representative
Division of Hazardous Waste Management

MS/mlm

Enclosures

cc: Harry Sarvis, DHWM-CO

Notice:

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve your company from having to comply with all appropriate regulations.