

**Environmental
Protection Agency**

John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

Certified Mail: 7010 1060 0001 7896 3393

November 23, 2011

**ATHENS COUNTY
GEM COATINGS
DMWM/SEDO
OHR000139790**

Mr. Karry Gemmell
Gem Coatings
5840 Industrial Drive
Athens, Ohio 45701

Dear Mr. Gemmell:

On October 18, 2011, I conducted an inspection of Gem Coatings' facility in Athens, Ohio to determine Gem Coatings' 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). I sent you a Notice of Violation (NOV) letter on November 1, 2011 specifying the violations observed during the inspection. To date, Gem Coatings has failed to respond to the November 1, 2011 NOV letter and remains in violation of the following:

- (1) **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.

During the inspection, we observed the following drums of waste, the contents of which were unknown:

- Next to the burn-off oven - two black 55-gallon drums;
- On the loading dock - one black plastic 55-gallon drum, labeled "treatment waste"; and
- Outside behind the building - two black 55-gallon drums, one green 55-gallon drum, one black 55-gallon drum with writing on it (writing could not be fully read because of the placement of other drums against the drum), and one blue plastic 55-gallon drum.

In order to return to compliance with this rule, Gem Coatings must immediately determine whether the wastes in the drums named above are hazardous wastes. To demonstrate compliance, report your findings on each drum to this office.

- (2) **Ohio Revised Code §3734.02(E) and (F), Prohibitions:** (E) No person shall establish or operate a hazardous waste facility, or use a solid waste facility for the storage, treatment, or disposal of any hazardous waste, without a hazardous waste facility installation and operation permit issued in accordance with section 3734.05 of the Ohio Revised Code.

(F) No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and the rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of.

At the time of the inspection, Gem Coatings was generating less than 100 kg of hazardous waste in a month, which would normally make them a conditionally exempt small quantity generator (CESQG). However, Gem Coatings was storing over 1000 kg of hazardous waste on-site. According to OAC Rule 3745-51-05(G), all of those accumulated wastes are subject to regulation under the special provisions of OAC Chapter 3745-52 applicable to generators of between 100 kg and 1,000 kg of hazardous waste in a calendar month, as well as the requirements of Chapters 3745-53, 3745-54 to 3745-57, 3745-65 to 3745-69, 3745-205, 3745-256, 3745-266, and 3745-270 and rules 3745-50-40 to 3745-50-235 of the Administrative Code. The time period of paragraph (D) of OAC Rule 3745-52-34 for accumulation of wastes on-site begins for a CESQG when the accumulated wastes exceed 1,000 kg.

During the inspection, it was reported that the last shipment of hazardous waste off-site had occurred in June of 2009. At the time of the shipment, some of the hazardous waste was in plastic drums that Veolia would not accept. So the hazardous waste not accepted by Veolia in June 2009 was still on-site at the time of the inspection, indicating that the waste had been stored on-site at least 856 days. (The exact date of waste shipment documented by the manifest is June 15, 2009). In June 2009, Gem Coatings was a Small Quantity Generator of hazardous waste so the drums should have been sent off-site within 180 days. In addition, there were nine 55-gallon drums and four five-gallon pails of painting related hazardous waste as well as eight 55-gallon drums of unknown waste material on-site at the time of the inspection. Based on the amount of waste on-site and the facility's estimate that less than 100 kg of hazardous waste is generated each month, much of this hazardous waste has also been stored in excess of 180 days. Since there has been no shipment of hazardous waste since June 15, 2009, at a minimum, all waste generated from June 15, 2009 until April 21, 2011 has been stored for more than 180 days.

In order to return to compliance with this rule, Gem Coatings must cease their illegal storage of hazardous waste by manifesting to a permitted treatment storage and disposal facility all hazardous waste that has been on-site greater than 180 days. Gem Coatings must demonstrate compliance by submitting copies of signed manifests for the hazardous waste to this office.

Since Gem Coatings violated ORC §3734.02(E) and (F), Gem Coatings 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 Gem Coatings begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

Small Quantity Generator Requirement Violations

As stated above, Gem Coatings currently generates less than 100 kg of hazardous waste per month. But their storage of over 1000 kg of hazardous waste has subjected them to the requirements of a Small Quantity Generator. Gem Coatings is in violation of the following Small Quantity Generator requirements. As long as over 1000 kg of waste remains on-site, Gem Coatings should take immediate action to comply with the Small Quantity Generator requirements to promote safety at their facility. Once Gem Coatings has complied with the requirements in violation #2, to properly dispose of all hazardous waste stored on-site for greater than 180 days, Gem Coatings will no longer be in violation of these Small Quantity Generator Requirements listed in violations #3 through #10.

- (3) **OAC Rule 3745-52-34(D)(5)(b), Accumulation Time of Hazardous Waste:** Small quantity generators accumulating hazardous waste must post the following information next to the telephone:
- (i) Name and number of the emergency coordinator;
 - (ii) Location of fire extinguishers and spill control material, and, if present, fire alarm(s); and
 - (iii) The telephone number of the local fire department, unless the facility has a direct alarm.

The required emergency information was not posted by the telephone.

- (4) **OAC Rule 3745-52-34(D)(5)(c), Accumulation Time of Hazardous Waste:** Small quantity generators accumulating hazardous waste must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

Gem Coatings was storing hazardous waste in containers that were not closed, labeled, or dated, and there were drums of hazardous waste from painting covered with spilled waste. These storage practices indicate that employees are not familiar with proper waste handling.

- (5) **OAC Rule 3745-65-31, Maintenance and Operation of Facility:** Facilities shall be maintained and operated to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

Hazardous waste was not being stored in a manner that would minimize the possibility of a release. Six of the containers that Gem Coatings was storing hazardous waste in had open bungs. A cigarette package was observed on top of an open drum of paint waste, indicating that smoking may be occurring in the area. The paint is hazardous for ignitability (D001).

- (6) **OAC Rule 3745-65-32(C), Required Equipment:** Facilities shall be equipped with the following, unless none of the hazardous posed by waste handled at the facility could require a particular kind of equipment specified below: Portable fire extinguishers, fire control equipment (including, but not limited to, special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.

Gem Coatings did not have spill control equipment available in the areas where hazardous waste is stored.

- (7) **OAC Rule 3745-65-33, Testing and Maintenance of Equipment:** All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency. The owner or operator must record the inspections in a log or summary.

Emergency equipment inspections were not being done or recorded in a log.

- (8) **OAC Rule 3745-52-34(D)(4), Accumulation Time of Hazardous Wastes:** Small Quantity Generators accumulating hazardous waste on-site must comply with OAC Rule 3745-52-34(A)(2) and (3) requirements which are:

(A)(2) The date upon the period of accumulation begins is clearly marked on each container and visible for inspection.

(A)(3) While being accumulated on-site, each container is labeled or clearly marked with the words "Hazardous Waste."

At the time of the inspection, Gem Coatings had nine 55-gallon drums and four 5-gallon pails of painting related hazardous waste which were not marked with an accumulation date or the words "Hazardous Waste."

- (9) **OAC Rule 3745-66-73(A), Management of Containers:** A container holding hazardous waste shall always be closed during storage, except when it is necessary to add or remove waste.

Six of the containers that Gem Coatings was storing hazardous waste in had open bungs.

- (10) **OAC Rule 3745-66-74, Inspections:** Areas where containers are stored must be inspected, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors. The inspections must be recorded in a log or summary.

Gem Coatings was not inspecting their hazardous waste container accumulation area.

Used Oil

- (11) **OAC Rule 3745-279-22(C), Used Oil Storage Requirements for Generators:** Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

There were two 55-gallon drums of used oil in the fabrication area of the plant that were not labeled with the words "Used Oil."

In order to return to compliance with this rule, Gem Coatings must label these used oil containers with the words "Used Oil." To demonstrate compliance with this rule, submit a photograph of the labeled containers to this office.

Universal Waste

- (12) **OAC Rule 3745-273-13(D)(1), Waste Management - Standards for Small Quantity Handlers of Universal Waste:** Universal waste lamps. A small quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows: A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

At the time of the inspection, in the storage closet near the time clock we observed six waste fluorescent lamps, four foot in length, that were not contained and two waste fluorescent lamp cardboard storage boxes that were not closed. We also observed four waste fluorescent lamps, four foot in length, on shelving located across from the time clock that were not contained.

In order to return to compliance with this rule, Gem Coatings must contain their waste lamps in closed containers. To demonstrate your return to compliance, submit a photograph of the closed storage containers.

- (13) **OAC Rule 3745-273-14(E), Labeling/Marking - Standards for Small Quantity Handlers of Universal Waste:** Each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

The cardboard boxes used for waste fluorescent lamp storage were not labeled.

In order to return to compliance with this rule, Gem Coatings must label their universal waste storage containers with one of the three phrases named in the above rule. To demonstrate your return to compliance, submit a photograph of the labeled storage containers.

- (14) **OAC Rule 3745-273-16, Employee Training for Small Quantity Handlers of Universal Waste:** A small quantity handler of universal waste shall inform all employees who handle or have responsibility for managing universal waste. The information shall describe proper handling and emergency procedures appropriate to the type(s) of universal waste handled at the facility.

Employees were not informed of the waste handling procedures for fluorescent lamps based on the non-compliant storage conditions for waste lamps.

In order to return to compliance with this rule, Gem Coatings must inform all employees working with waste fluorescent lamps of proper universal waste handling procedures. Respond to this office with a statement describing what was done to comply with this requirement.

Request for Additional Information

- (a) Gem Coatings generates a wastewater from degreasing of steel parts using a 5% alkaline rinse and a 3% iron phosphate. Please provide your most recent waste evaluation for this waste stream pursuant to OAC Rule 3745-52-11.

Gem Coatings needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. **Within 7 days of receipt of this letter**, Gem Coatings is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance may be submitted via the postal service or electronically to Elizabeth.Herron@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734. of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Gem Coatings is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

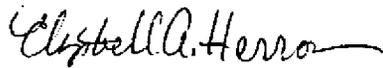
Nothing in this letter shall be construed to authorize any waiver from the requirements of any applicable state or federal laws or regulations. This letter shall not be interpreted to release the owner or operator, or others, from responsibility under Chapters 3704, 3714, 3734, or 6111 of the Ohio Revised Code or under the Federal Clean Water Act, Resource Conservation and Recovery Act, or Comprehensive Environmental Response, Compensation, and Liability Act for remedying conditions resulting from any release of contaminants to the environment.

You can find Ohio's hazardous waste rules and other information on the division's web page at: <http://www.epa.ohio.gov/dhwm/>

Mr. Karry Gemmell
Gem Coatings
November 23, 2011
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If you have any questions, please contact me by telephone at (740) 380-5248 or by e-mail at Elizabeth.Herron@epa.ohio.gov.

Sincerely,



Elizabeth A. Herron
Environmental Specialist
Division of Materials and Waste Management

EAH/mlm

cc: Paul Peterson, Gem Coatings
Michael Hollingsworth, Shostak & Hollingsworth
James Carr, Ohio Attorney General's Office
Mitch Mathews, CO-DMWM