

**Environmental
Protection Agency**

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

February 8, 2011

**RE: SHERMAN INDUSTRIES, INC.
LAKE COUNTY
CRO FOURTH NOV**

**CERTIFIED MAIL
RETURN RECEIPT**

Mr. Scott Terhune, Owner
30799 Pinetree Rd.
P.O. Box 410
Cleveland, OH 44124

Dear Mr. Terhune:

On November 8, 2010, the Ohio EPA Division of Hazardous Waste Management sent a Third Notice of Violation. On November 10, 2010, we received confirmation that wastes had been profiled to be sent off site. Confirmation of this disposal and other required documentation to abate the following violations has not been received by this office.

This facility, located at 37701 Stevens Blvd. in Willoughby, is a State Emergency Response Commission (SERC) notifier that ceased operations in about 2008. On June 24, 2010, this site was inspected for compliance with Ohio's Cessation of Regulated Operations (CRO) including Ohio's hazardous waste laws and regulations, as found in the Ohio Revised Code and the Ohio Administrative Code ("ORC" and "OAC" respectively).

It is understood that the assets of this property have been sold and that it is no longer being secured and maintained by the fiduciary. Ohio EPA identified numerous drums and containers of regulated substances on site. The regulated substances include: hydrochloric acid, antifreeze, oils, used oils, fuels in containers and underground storage tanks, grease, paints, solvents, compressed gas, cleaners, solid waste and debris, parts washer fluid, aerosol cans, office electronics, fluorescent lamps, lead acid truck batteries, calcium chloride, Portland cement, concrete plasticizers, admixes, form release oils and vehicles. You failed to secure the site and remove all waste, hazardous waste and regulated substances in accordance with the CRO rules and law. These wastes and regulated substances must be transferred, recycled or disposed.

Violations

The following violations of Ohio's hazardous waste regulations were observed during the June 24, 2010 inspection and continue unabated. In order to abate the violations you must do the following ***within 30 days*** of receipt of this letter:

- 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.

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You failed to determine if the wastes abandoned at the site are a hazardous waste. At least one full drum of hydrochloric acid was observed on the southwest side of the old batch plant. There remains an additional partially full 55-gallon black poly drum of unknown contents. There are also several five and numerous one gallon and smaller containers of unknowns and solvent, paints, sealers, adhesives and drums of used oil contaminated debris.

- You must immediately evaluate each waste to determine if it is a listed or characteristic hazardous waste as required by OAC 3745-52-11. Guidance to assist you in waste evaluation was previously provided and may be found at: <http://www.epa.ohio.gov/portals/41/sb/publications/identifyingwaste.pdf>. Once you have made this determination, you must send me the documentation and properly send off the wastes.

4. Designation of a contact person, ORC § 3752.05 and OAC 3745-352-20 (A)(1)(c):

You failed to identify a contact person on EPA Form 0327.

- You must update Ohio EPA with the name and telephone number of the contact person through completion of EPA Form 0327 and submit it to the requisite agencies and departments identified on this form. A copy of Form 0327 may be accessed at: http://epa.ohio.gov/portals/32/pdf/CRO_Manual.pdf.

5. Drain or remove all regulated substances from each stationary item, ORC §3752.06(A)(4): All regulated substances must be drained or removed from each stationary vat, tank, electrical transformer, and vessel, and from all piping that is to remain at the Facility and a combination of the following must also be done:

1. Transfer the regulated substances to another Facility owned or operated by the owner or operator.
2. Lawfully transfer ownership of the regulated substances to another person through sale or otherwise; or
3. Cause the regulated substances to be transported off the premises and managed in compliance with all applicable regulations for disposal.

You failed to send off numerous containers of fluids, solvents, fuel, compressed gas, admixes and substances identified in your SERC notification (attached).

- Please provide copies of receipts or manifests that show all oil, fuel and fluids have been received by a hazardous waste facility or properly transferred off site for recycling or proper disposal.

6. **Submission of a list of all stationary items contaminated with regulated materials remaining at the facility, ORC § 3752.06(A)(3) and OAC 3745-352-20(A)(2)(d):** If an owner/operator will be leaving any stationary tank, vat, electrical transformer, or vessel of any type that contains or is contaminated with regulated substances, the owner/operator must submit a precise description of where each stationary tank, vat, electrical transformer, or vessel of any type is located, and a description of what regulated substance each stationary tank, vat, electrical transformer, or vessel of any type contains or is contaminated with.

You failed to submit descriptions of regulated substances remaining on site.

- Please submit the required descriptions of all stationary equipment or locations that contain or is contaminated with a regulated substance.

7. **Removal of Regulated substances from non-stationary items, ORC § 3752.06(A)(5) and OAC 3745-352-20(A)(2)(c):** The owner/operator must remove from the Facility all regulated substances and all debris, and non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, as defined in rule 3745-352-05 of the Administrative Code by doing any or a combination of the following:

(i) Lawfully transfer the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to another operating Facility that you own or operate; or

(ii) Lawfully transfer ownership of the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to another person; or

(iii) Cause the regulated substances and the debris, non-stationary equipment and furnishings, non-stationary containers, and motor vehicles and rolling stock that contain or are "contaminated with" regulated substances, to be transported off the premises of the Facility and managed in compliance with all applicable regulations.

You failed to remove numerous containers of oil, fluids, fuel, acid, paints solvents, aerosols, admixes, and cleaners in compliance with this rule.

- You must submit per OAC 3745-352-20(A)(2)(e) documentation that each stationary tank, vat, electrical transformer, vessel of any type, piping, non-stationary equipment and furnishing, non-stationary container, motor vehicle, rolling stock or debris is not contaminated with a regulated substance. You must record in a log the standard industrial method used to remove the regulated substance from each of these items.

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10.90-day Notification to the Director, ORC § 3752.06(A)(6) and OAC 3745-352-20(A)(2)(g): The owner/operator must make a written certification to the director of Ohio EPA concerning the completion of the removal action within 90 days after ceasing regulated operations using form EPA 0329.

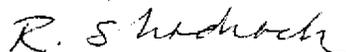
You failed to provide this form to Ohio EPA.

- You need to immediately complete removal per the rules and submit this certification. A copy of Form 0329 may be found at: <http://epa.ohio.gov/portals/32/pdf/epa0329.pdf>.

Ohio EPA considers these violations serious in nature. Your failure to respond to this and past Notices of Violations may result in referral to our Central Office Enforcement Section for consideration of escalated enforcement.

The Division of Hazardous Waste Management (DHWM) has copies of the rules and other information on the DHWM's web page at: <http://www.epa.state.oh.us/dhwm/>. Please provide your response in writing to me **within 30 days** of receipt of this letter. Should you have any questions, please call me at (330) 963-1146 or e-mail me at: ron.shadrach@epa.state.oh.us.

Sincerely,



Ronald J. Shadrach
District Representative
Division of Hazardous Waste Management

RJS/cl

ec: Frank Popotnik, DHWM, NEDO
Marlene Kinney DHWM, NEDO
Natalie Oryshkewych, DHWM, NEDO

cc:Ralph McGinnis, DHWM, CO
Harry Sarvis, DHWM, CO
Nils Widing, Complete Waste Disposal, w/attachments
Lake County LEPC
Willoughby Fire Department
Matthew J. Caiazza, The Meridian Group, Receiver

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 applicable regulations.

TEMPORARY DISCONTINUATION OF REGULATED OPERATIONS CHECKLIST

INSPECTION INFORMATION

NAME		AFFILIATION	PHONE NUMBER
Inspectors:			
Inspection Dates:		Time(s):	
Inspection Announced?	Yes <input type="checkbox"/> No <input type="checkbox"/>	If so, how much advance notice given?	
Facility Reps(s):			

GENERAL REQUIREMENTS [ORC §3752.09]

1.	Is the owner/operator exempt from making a written certification about their facility's temporary discontinuation of regulated operations as provided in ORC §3752.09(B) and OAC rule 3745-352-40(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
	If no, continue	
2.	Has the owner/operator temporarily discontinued all regulated operations at the facility for a period of greater than 30 days but less than 365 days? [OAC rule §3752.09(A)(1), OAC rule 3745-352-20(B)(1)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> ?
3.	Did the owner/operator submit written certification to the Director within 45 days after discontinuing operations? [ORC §3752.09(A)(1), OAC rule 3745-352-20(B)(1)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> ?
4.	Has the owner/operator failed to resume regulated operations at the facility within 365 days? [ORC§3752.09(A)(1), OAC rule 3745-352-20(B)(2)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> ?
a.	Did the owner/operator designate a contact person within 30 days after the anniversary date on which the operations were discontinued per ORC §3752.05?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
b.	Did the owner/operator comply with the removal requirements within 90 days after the anniversary on which the operations were discontinued per ORC §3752.06(A)(1)-(6) and OAC rule 3745-352-20(B)(2)(c)?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>

Sherman Ind.

[Facility Name/Inspection Date]
[ID Number]