

Environmental
Protection Agency

Ohio
Governor
Lt. Governor
Director

February 1, 2012

Kerry Armes
Fomo Products
2775 Barber Rd.
Norton, OH 44203

**RE: FOMO PRODUCTS, OHD 982 631 681, SUMMIT COUNTY, CESQG, NOTICE
OF VIOLATION/RETURN TO COMPLIANCE**

Dear Mr. Armes:

On January 24, 2012, Ohio EPA's Division of Materials and Waste Management, represented by Edward D'Amato and Robert Almquist, inspected Fomo Products for compliance with Ohio hazardous waste laws and regulations found in Chapters 3734 of the Ohio Revised Code (ORC) and 3745 of the Ohio Administrative Code (OAC). You represented Fomo Products during the inspection.

Fomo Products manufactures sprayable foam insulation for commercial customers.

The following waste streams were identified:

1. Acetone-contaminated paper rags
2. Universal waste lamps
3. Universal waste batteries
4. Aerosol cans which are punctured and managed as scrap metal

The following violations were found:

1. **Labeling/Marking Standards for Universal Waste
OAC 3745-273-14(E)**

Each universal waste 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)"

There were approximately 3 boxes of lamps that were not labeled per this rule. This violation was corrected during the inspection when Fomo Products labeled the boxes.

2. **Universal Waste Management Standards—Containers**
OAC 3745-273-13(D)

A small quantity handler of universal waste must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage...such containers must be kept closed and must lack evidence of leakage, spillage or damage.

There were approximately 3 boxes of lamps that were not closed per this rule. This violation was corrected during the inspection when Fomo Products closed the boxes.

No response to this letter is required

Failure to list specific deficiencies in this communication does not relieve Fomo Products 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: Natalie Oryshkewych, DMWM, NEDO
ec: Frank Popotnik, DMWM, NEDO
Jeff Mayhugh, DMWM, CO

**CONDITIONALLY EXEMPT SMALL QUANTITY GENERATOR REQUIREMENTS
COMPLETE AND ATTACH A PROCESS, WASTE, P2 SUMMARY SHEET**

CESQG: ≤100Kg. (Approximately 25-30 gallons) of waste in a calendar month or < 1 Kg. of acutely hazardous waste.
 SQG: Between 100 and 1,000 Kg. (About 25 to under 300 gallons) of waste in a calendar month.
 LQG: ≥ 1,000 Kg. (~300 gallons) of waste in a calendar month or ≥1 Kg. of acutely hazardous waste in a calendar month.
 NOTE: To convert from gallons to pounds: Amount in gallons x Specific Gravity x 8.345 = Amounts in pounds.

Safety Equipment Used: *Safety Glasses + Shoes*

WASTE EVALUATION

1.	Have all wastes generated at the facility been adequately evaluated? [3745-52-11]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
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GENERATOR CLASSIFICATION

2.	Does the generator produce <100 kg. of hazardous waste per month? [conditionally exempt small quantity generator ("CESQG")]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
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NOTE: If quantities of hazardous waste accumulated on-site at any one time exceed 1,000 Kg. - or the generator produces between 100 and 1,000 Kg. of hazardous waste per month, it is operating as a Small Quantity Generator ("SQG"). If so, complete the Small Quantity Generator Requirements checklist.

OFF-SITE SHIPMENT OF HAZARDOUS WASTE

3.	Does the CESQG ensure delivery of hazardous waste(s) to an off-site permitted TSD? [3734.02(F)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
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TREATMENT OF HAZARDOUS WASTE

4.	Does the generator treat hazardous waste in a:	
a.	Container that meets 3745-66-70 to 3745-66-77?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Tank that meets 3745-66-90 to 3745-66-101 except 3745-66-97(C)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
c.	Drip pads that meet 3745-69-40 to 3745-69-45?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
d.	Containment building that meets 3745-256-100 to 3745-256-102?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

NOTE: Complete appropriate checklist for each unit.

NOTE: If the CESQG conducts treatment they are subject to the LQG requirements.

NOTE: If waste is treated to meet LDRs, use LDR checklist.

MIX HAZARDOUS WASTE WITH USED OIL

5.	Does the CESQG mix its hazardous waste with used oil for the purpose of burning for energy recovery? [3745-51-05(J)] If so:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
a.	Does the CESQG manage the mixture in accordance with 3745-279-21?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

*Fomo Products
1/24/12*

SMALL QUANTITY UNIVERSAL WASTE HANDLER REQUIREMENTS – BATTERIES AND LAMPS

Large Quantity Universal Waste Handler (LQUWH) = 5,000 Kg or more

Small Quantity Universal Waste Handler (SQUWH) = 5,000 Kg or less

PROHIBITIONS

Some products

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| 1. | Did the SQUWH dispose of universal waste? [3745-273-11(A)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| 2. | Did the SQUWH dilute or treat universal waste, except when responding to releases as provided in OAC rule 3745-273-17 or managing specific wastes as provided in OAC rule 3745-273-13? [3745-273-11(B)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |

WASTE MANAGEMENT AND LABELING/MARKING

UNIVERSAL WASTE BATTERIES

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|----|--|--|
| 3. | Are batteries that show evidence of leakage, spillage or damage that could cause leaks contained? [3745-273-13(A)(1)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| 4. | If batteries are contained, are the containers closed and structurally sound, compatible with the contents of the battery and lack evidence of leakage, spillage or damage that could cause leakage? [3745-273-13(A)(1)] | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |
| 5. | Are the casings of the batteries breached, not intact, or open (except to remove the electrolyte)? [3745-273-13(A)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/> |
| 6. | If the electrolyte is removed or other wastes generated, has it been determined whether the electrolyte or other wastes exhibit a characteristic of hazardous waste? [3745-273-13(A)(3)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| a. | If the electrolyte or other waste is characteristic, is it managed in compliance with OAC Chapters 3745-50 through 3745-69? [3745-273-13(A)(3)(a)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| b. | If the electrolyte or other waste is not hazardous, is it managed in compliance with applicable law? [3745-273-13(A)(3)(b)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |
| 7. | Are the batteries or containers of batteries labeled with the words "Universal Waste - Batteries" or "Waste Battery(ies)" or "Used Battery(ies)"? [3745-273-14(A)] | Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> |

UNIVERSAL WASTE LAMPS

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| 8. | Does the SQUWH contain lamps in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with contents of the lamps? Are containers or packages closed and do they lack evidence of leakage, spillage or damage that could cause leakage? [3745-273-13(D)(1)] | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
<i>Not closed - Fixed during insp.</i> |
| 9. | Are lamps that show evidence of breakage, leakage or damage that could cause a release of mercury or hazardous constituents into the environment immediately cleaned up? Are they placed into a container that is closed, structurally sound, compatible with the contents of the lamps, and lack evidence of leakage, spillage or damage that could cause leakage or releases of mercury or hazardous waste constituents to the environment? [3745-273-13(D)(2)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/> |

NOTE: Treatment (such as crushing) by a UWH is prohibited under this rule unless the facility is permitted for such activities [3745-273-31(B)]. A generator crushing lamps must manage lamps according to hazardous waste rules (OAC Chapter 3745-52). Lamp crushing is a form of generator treatment (OAC rule 3745-52-34). Crushed lamps must be transported by a registered hazardous waste transporter to a permitted hazardous waste facility using a hazardous waste manifest.

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| 10. | Are the lamps or containers or packages of lamps labeled with the words "Universal Waste - Lamp(s)" or "Waste Lamp(s)" or "Used Lamp(s)"? [3745-273-14(E)] | Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>Fixed during insp.</i> |
|-----|--|---|

ACCUMULATION TIME		
11.	Is the waste accumulated for less than one year? [3745-273-15(A)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
a.	If not, is the waste accumulated over one year in order to facilitate proper recovery, treatment or disposal? (Burden of proof is on the handler to demonstrate) [3745-273-15(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>NOTE: Accumulation is defined as date generated or date received from another handler.</i>		
12.	Is the handler able to demonstrate the length of time the universal waste has been accumulated? [3745-273-15(C)] If yes, describe below:	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
EMPLOYEE TRAINING		
13.	Are employees who handle or have the responsibility for managing universal waste informed of waste handling/emergency procedures, relative to their responsibilities? [3745-273-16]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
RESPONSE TO RELEASES		
14.	Are releases of universal waste and other residues immediately contained? [3745-273-17(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
15.	Is the material released characterized? [3745-273-17(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
16.	If the material released is a hazardous waste, was it managed as required in OAC Chapters 3745-50 through 3745-69? (If the waste is hazardous, the handler is considered the generator of the waste and is subject to OAC Chapter 3745-52) [3745-273-17(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
OFF-SITE SHIPMENTS		
<i>NOTE: If a SQUWH self-transport waste, then the handler must comply with the Universal Waste transporter requirements.</i>		
17.	Are universal wastes sent to either another handler, destination facility or foreign destination? [3745-273-18(A)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
18.	Is the handler aware of DOT requirements for packaging and shipping? If no, make aware of 49 CFR 171-180.	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
19.	Prior to shipping universal waste off-site, does the originating handler ensure that the receiver agrees to receive the shipment? [3745-273-18(D)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
20.	Has the originating handler ever had an off-site shipment rejected by another handler or destination facility?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
a.	If yes, did the originating handler receive the waste back or agree to where the shipment was sent? [3745-273-18(E)(2)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
21.	If a handler rejects a partial or full load from another handler, does the receiving handler contact the originating handler and discuss and do <u>one</u> of the following:	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
a.	Send the waste back to the originating handler or send the shipment to a destination facility (If both the originating and receiving handler agree)? [3745-273-18(F)(2)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
22.	If the handler received a shipment of hazardous waste that was not a universal waste, did the SQUWH immediately notify Ohio EPA? [3745-273-18(G)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
EXPORTS		
23.	Is waste being sent to a foreign destination? If so:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>

a.	Does the small quantity handler comply with primary exporter requirements in OAC rules 3745-52-53, 3745-52-56, and 3745-52-57? [3745-273-20(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Is waste exported only upon consent of the receiving country and in conformance with the U.S. EPA "Acknowledgment of Consent" as defined in OAC rules 3745-52-50 to 3745-52-57? [3745-273-20(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
c.	Is a copy of the U.S. EPA "Acknowledgment of Consent" provided to the transporter? [3745-273-20(C)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>