



**Environmental
Protection Agency**

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

July 13, 2011

Adam Fishman
Flats East Development LLC
c/o Don Frantz
Metro Consulting
12429 Cedar Rd Suite 19
Cleveland Hts, OH 44106

**Re: 2009 Hazardous Waste Annual Report Requirement – Notice of Violation
Flats East Development LLC, Cleveland – OHR000148114**

Dear Adam/Don:

My review of customer data from Ohio Treatment, Storage, and Disposal Facilities (TSDFs) has revealed that one or more shipments of hazardous waste were received from Flats East Development LLC in Cleveland, OH during the 2009 calendar year. The total amount reported is approximately 60.56 tons as shown on the enclosed printout. This total indicates that Flats East Development was a large quantity generator in 2009. Because I have not received a Hazardous Waste Annual Report for 2009, Flats East Development may be in violation of Rule 3745-52-41 of the Ohio Administrative Code (OAC). I also have not received a reply to a similar violation for Flats East for 2008, the second notice of which is enclosed.

A large quantity generator is defined as a site which generates in any single month more than 1000 kg (2200 lbs) of non-acute hazardous waste or more than 1 kg (2.2 lb) of acutely hazardous waste. This includes wastes from one-time generation as well as wastes from ongoing production processes. Generating hazardous waste above the threshold quantity for only one month will subject a site to the Annual Report requirement. OAC Rule 3745-52-41 requires a generator who ships any hazardous waste off-site to prepare and submit to the Ohio EPA a Hazardous Waste Annual Report and to describe and certify efforts that were made to minimize hazardous wastes. These reports are due March 1 of each year and contain information about the activities of the previous calendar year. Only small quantity generators (between 220 and 2200 lb/mo of non-acutely hazardous wastes) and conditionally exempt small quantity generators (less than 220 lb/mo of non-acutely hazardous wastes) are exempt from the Annual Report requirement as described in OAC Rule 3745-52-44.

To abate the violation of OAC Rule 3745-52-41, Flats East Development must complete and submit to Ohio EPA a 2009 Hazardous Waste Annual Report within 30 days of receipt of this letter. Failure to respond to this Notice of Violation may result in referral to the Compliance Assurance Section for consideration of escalated enforcement. The 2010 forms and instructions can be used to complete both the 2008 and 2009 report, and can be found in Adobe Acrobat PDF format at <http://www.epa.ohio.gov/Default.aspx?tabid=4101>. This same web site contains detailed information about filing electronically using the eDRUMS service in Ohio EPA's eBusiness Center (eBiz) at <https://ebiz.epa.ohio.gov/login.jsp>. The Responsible

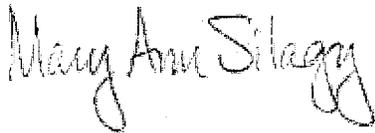
Official who will sign the report must have an eBiz account and PIN before they can apply for the service. Obtaining a PIN requires mailing to Ohio EPA a notarized signature and receiving the PIN by return US mail. I encourage you to file electronically because it is efficient, easy to use, and prevents many common errors due to built-in error checking and validation. The "copy" function in eDRUMS also simplifies reporting when multiple years are involved, as in this case.

Flats East Development should have on file the manifest records necessary for completion of the reports. OAC Rule 3745-52-40 requires generators to keep a signed copy of each manifest for a period of at least three years from the date the waste was accepted by the initial transporter. Receiving facilities and transporters are under a similar requirement. If you need copies of the original manifest(s), contact them for assistance.

If Flats East Development was not a large quantity generator in 2009, documentation must be submitted to this office within 30 days of receipt of this letter. This documentation must show that Flats East Development did not generate more than the threshold quantity of hazardous waste in any month during 2009. If you believe that the information supplied by Ohio TSDFs is in error, please call me to discuss the discrepancy.

A letter that acknowledges receipt of the report will be sent to you after it is processed. I can answer questions concerning the Annual Report or eBiz at (614) 644-2891 or maryann.silagy@epa.state.oh.us. Your prompt attention to this matter is appreciated.

Sincerely,



Mary Ann Silagy, Environmental Specialist 2
Environmental Research and Information Services
Ohio EPA - Division of Materials and Waste Management
maryann.silagy@epa.state.oh.us
614-644-2891

enclosures

cc: Central File
DMWM, SWDO

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.

Generator Facility

Generator US EPA ID: OHR000148114
Generator Name: Flats East Development LLC
Address: 989 Front Ave
Cleveland, OH 44113-
Total Tons Shipped: 60.56

Receiving Facility

US EPA ID: OHD004274031
Name: Clean Water LTD
Customer Name: Flats East Development LLC
Customer Address: 989 Front Ave
Cleveland, OH 44113-

Waste Description: Waste Flammable Liquid Wastewater

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System Type: H135 **Form:** W113 **Quantity:** 87120.00 P **Density:**

D018 D001

Receiving Facility

US EPA ID: OHD020273819
Name: Vickery Environmental Inc
Customer Name: FLATS EAST DEVELOPMENT
Customer Address: 989 FRONT STREET
CLEVELAND, OH 44113-

Waste Description: GROUNDWATER

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System Type: H134 **Form:** W101 **Quantity:** 17.00 T **Density:**

D018