



**Environmental
Protection Agency**

John R. Kasich, Governor

Mary Taylor, Lt. Governor

Scott J. Nally, Director

April 18, 2012

David Renfrew
EMC Metals
P.O. Box 266
Pittsburgh, PA 15230-0266

**RE: EMC METALS COMPANY (FORMER ELKEM), OHD 004 171 039, ASHTABULA COUNTY,
CESSATION OF REGULATED OPERATIONS, NOTICE OF VIOLATION**

Dear Mr. Renfrew:

On March 6, 2012, Ohio EPA, represented by Edward D'Amato, Jarnal Singh, and Colum McKenna, inspected EMC Metals for compliance with Ohio's 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 EMC Metals during the inspection.

The following violations and concerns were found:

**1. Hazardous Waste Determination
OAC 3745-52-11**

Any person who generates a waste in the state of Ohio...shall determine if the waste is a hazardous waste...

EMC Metals either could not identify or failed to determine whether or not the following materials are hazardous waste:

1. A steel pot in the Maintenance Shop containing unknown liquid contents.
2. Several miscellaneous 1-gallon cans in the Garage storage room, including one can of a BF Goodrich material labeled "extremely flammable".
3. Several aerosol cans throughout the locker room in the HR Building.
4. Various small containers in the Infirmary including containers labeled X-ray developer solution, alcohol, fungicide, silicone oil.
5. In the storage room at top of stairs, HR Building, South End: 4 cylinders labeled calibration gas.
6. HR Building, Top Floor, North End: a box of miscellaneous bottles of powders and liquids.
7. HR Building, Locker Room: container (5-gal) of floor cleaner labeled "corrosive".
8. In the former laboratory: 1 jar boric acid, four 5-gallon cans containing unknown contents, and one compressed gas cylinder of chlorine gas.
9. E-waste (computers, monitors, printers and other computer-related equipment) in the currently used office building, the offices in the maintenance shop, and throughout the entire HR Building.
10. Batteries found in the HR building, top floor.

To correct this violation, Ohio EPA expects EMC Metals to properly characterize and dispose of these items and to conduct a thorough walkthrough of all remaining buildings to find all universal waste and materials that must be managed as hazardous waste. Copies of all disposal documentation must be submitted to this office.

**2. Accumulation Time for Universal Waste (one year limit)
OAC 3745-273-15(A)**

A small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated.

Universal wastes have been on-site at least since EMC Metals/Elkem-Ashtabula closed in 2008. To correct this violation, EMC Metals must conduct a thorough walkthrough of all parts of the facility, find all universal wastes, properly dispose of/recycle them, and submit copies of all disposal/recycle documentation to this office.

**3. 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.

Lamps were found in several locations throughout the facility that were not in containers per this rule. To correct this violation all universal waste lamps at the facility must be placed in containers per this rule. The containers must be labeled as specified in Violation #4 below. You must submit photographs to this office showing this has been done.

**4. 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)"

Several containers of universal waste lamps in the former lunchroom in the HR Building were not labeled per this rule. To correct this violation, EMC Metals must label the boxes, photograph them and submit the photographs to this office. The lamps must also be properly disposed/recycled and copies of the disposal documentation must be submitted to this office.

**5. Universal Waste Management Labeling (Batteries)
OAC 3745-273-14(A)**

Each universal waste battery, or a container in which universal waste batteries are contained, shall be marked clearly with one of the following phrases: "Universal Waste Battery(ies)", or "Waste Battery(ies)", or "Used Batteries".

Batteries were found on the top floor of the HR Building that were not labeled per this rule. To correct this violation, EMC Metals must dispose of/recycle the batteries and submit copies of the disposal/recycle information to this office.

**6. Demonstration of Accumulation Time
OAC 3745-273-15(C)**

A facility shall be able to demonstrate the length of time that a Universal Waste has been accumulated from the date it becomes a waste.

EMC Metals was unable to demonstrate how long universal wastes have been on the premises. To correct this violation, EMC Metals must conduct a thorough walkthrough of all parts of the facility, find all universal wastes, properly dispose of/recycle them, and submit copies of all disposal/recycle documentation to this office.

In addition to the above violations, the following concern must be addressed:

1. EMC Metals must conduct a thorough walkthrough of all the buildings and identify any and all hazardous waste, universal waste, and used oil. EMC Metals must send an inventory of all such materials found, and documentation showing the proper disposition of the materials must be submitted.

EMC Metals needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. **Within 14 days** of receipt of this letter, EMC Metals 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 includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to Edward.damato@epa.state.oh.us.

Please be advised that violations cited above will continue until they 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, EMC Metals is requested to submit written correspondence of the steps that will be taken to attain compliance.

If you have any questions, please contact me at (330) 963-1170 if you have any questions.

Sincerely,



Edward J. D'Amato
Environmental Specialist
Division of Materials and Waste Management

EJD:ddw
Enclosure

cc: Todd Anderson, LEGAL, CO
ec: Frank Popotnik, DMWM, NEDO
Jeff Mayhugh, DMWM, CO
Jarnal Singh, DMWM, NEDO
Colum McKenna, DMWM, NEDO

SMALL QUANTITY UNIVERSAL WASTE HANDLER REQUIREMENTS – BATTERIES AND LAMPS		
<i>Large Quantity Universal Waste Handler (LQUWH) = 5,000 Kg or more</i>		
<i>Small Quantity Universal Waste Handler (SQUWH) = 5,000 Kg or less</i>		
PROHIBITIONS		
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		
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 type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" 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 type="checkbox"/> N/A <input checked="" 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 type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
UNIVERSAL WASTE LAMPS		
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"/>
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"/>
<p>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.</p>		
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 checked="" type="checkbox"/> N/A <input type="checkbox"/>

ACCUMULATION TIME		
11.	Is the waste accumulated for less than one year? [3745-273-15(A)]	Yes <input type="checkbox"/> No <input checked="" 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 checked="" type="checkbox"/> N/A <input 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 type="checkbox"/> No <input checked="" 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 type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/> <i>Unknown - only one employee</i>
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>No offsite shipments have occurred</i>		
<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 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 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 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 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 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 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 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 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"/>