



State of Ohio Environmental Protection Agency

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February 17, 2009

Mr. Eric Lofquist, President
General Environmental Management LLC
2727 Transport Road
Cleveland, OH 44115

ESG Holdings, LLC
ATTN: Patricia A. Gajda, Vice President
106 South Main Street, Suite 500
Akron, Ohio 44308

**RE: GENERAL ENVIRONMENTAL MANAGEMENT, OHD004178612
CUYAHOGA COUNTY, PRTC LETTER**

Dear Mr. Lofquist:

On July 9, 2008, the Environmental Protection Agency (OEPA) received General Environmental Management's (GEM) response to the Agency's June 2, 2008 notice of violation (NOV) letter. GEM's responses to the violations are discussed below.

The following violation remains outstanding from the August 21, 2006 letter:

2(a). OAC rule 3745-52-11 - Hazardous waste determination:
Any person who generates a waste must determine if that waste is a hazardous waste.

Any sludges, solids, residuals or materials removed from tanks and/or piping in the wastewater treatment system must be evaluated to determine whether those wastes are hazardous wastes. Ohio EPA considers the high organic content waste or waste with British thermal unit (Btu) value, which is removed from the wastewater treatment system and placed into Tanks 49, 50 and/or 54, a newly generated waste and subject to the waste evaluation requirements in OAC rule 3745-52-11. Based upon Ohio EPA's understanding of the processes at the Facility, some wastes, including some material that is received as "used oil, are received from off-site as non-hazardous wastewaters. These wastes contain some fuel value and are treated in GEM's wastewater process to separate this fuel value material from the water portion for addition into your used oil fuel. GEM must completely evaluate the wastes to determine if the wastes exhibit any characteristics found in OAC rule 3745-51-21 through 3745-51-24, as well as any specific listings found in OAC rule 3745-51-30 through 3745-51-33. Regardless of whether GEM ceases accepting listed hazardous waste for processing in the wastewater treatment system, GEM must properly evaluate all wastes, including the high organic content waste which is removed from the wastewater treatment system and placed into Tanks 49, 50 and/or 54, to determine if those wastes are hazardous wastes, in accordance with OAC rule 3745-52-11.

As explained above, GEM processes wastes which have fuel value, but do not exhibit a characteristic of a hazardous waste (e.g., wastewater with recoverable organic content). Once processed through GEM's wastewater treatment portion of its operation, the recovered fuel value portion of the original waste is mixed with the used oil at GEM.

However, at the point prior to insertion into the used oil process, this recovered fuel material is a new point of generation of a waste and subject to waste evaluation per OAC rule 3745-52-11.

GEM responded by referencing an Ohio EPA letter to Mr. Dave Brown of United Waste Water Services, Inc.(UWW) regarding the evaluation of the sludge generated at the end of UWW's treatment process. GEM has misinterpreted the situation at UWW for what it taking place at their facility. GEM is treating a waste to recover fuel material and mixing with their used oil. UWW is using a solvent for its solvent properties to recover used oil. Therefore, the end product at UWW is can be regulated as a used oil. Where as GEM's used oil is mixed with a waste which has not been properly evaluated in accordance with OAC rule 3745-52-11.

Furthermore, GEM supplied Ohio EPA with analytical results which seem to indicate the LDAF sludge waste stream at GEM is non-hazardous. However, GEM does not provide information as to what part of the process this waste stream is generated. Therefore, Ohio EPA cannot determine if this information is sufficient to satisfy the OAC rule 3745-52-11 violation.

It is Ohio EPA's understanding that GEM has ceased receiving waste from off-site and is the process of completely shutting down their operations. In light of this circumstance, this violation will remain outstanding.

Additionally, GEM indicated in its July 8, 2008 response they, in some instances, will ship its recovered oil product for use as a substitute for a commercial chemical product (carbon source). Ohio EPA has explained that spent materials being used as carbon substitutes in devices which also recover energy (e.g., boilers, industrial furnaces, etc.) are not commercial chemical substitutes for carbon sources, but are wastes being burned for energy recovery purposes. As such, if the wastes are hazardous, then the material would be a hazardous waste. Please see links for reference material
<http://www.epa.state.oh.us/dhwm/searchdocs/ewillis.10.26.05.pdf>
<http://www.epa.state.oh.us/dhwm/searchdocs/tcharpia.12.9.05.pdf>

New Violations Associated with July 24, 2007 Inspection

1. Establishment and Operation of Hazardous Waste Facility, Ohio Revised Code 3734.02(E) and (F);

GEM received used oil from off-site which contained greater than 1000 ppm total halogens without rebutting the presumption that the used oil had not been mixed with a listed hazardous waste, as described in OAC rule 3745-279-53. Therefore, GEM established, operated, and managed hazardous waste without a hazardous waste facility installation and operation permit.

In the June 2, 2008, Notice of Violation, Ohio EPA cited GEM for failing to comply with the standards set forth in OAC rule 3745-279-53(C) for rebutting the presumption that listed hazardous waste had been mixed with used oil. GEM responded to this violation by submitting the information observed by Ohio EPA during the July and August 2008 inspections (i.e. load tracking records, manifests, profile, and a signed rebuttable presumption form from the facility) and did not provide any new information.

GEM failed to follow its used oil analysis plan and receive information regarding two shipments of used oil which contained greater than 1000 ppm total halogens from Vexor (Profile 1163-N-L) (Manifest #22106 dated 2/21/06 and Manifest #60214 dated 2/14/06) to demonstrate the used oil had not been mixed with a listed hazardous waste. Also, GEM failed to demonstrate they had rebutted the presumption on used oil loads received from Capital City Road Oil.

GEM's response fails to rebut the presumption that the used oil it received from Vexor has not been mixed with a listed hazardous waste. GEM relies solely on Vexor's certification that the used oil has not been mixed with listed hazardous waste. However, the use of certifications to demonstrate used oil has not been mixed with a listed hazardous waste is based upon the used oil generator's process knowledge. Since Vexor is not the generator of the used oil (Vexor is a used oil transporter/transfer and processing facility), they cannot certify that the used oil has not been mixed with a listed hazardous waste. GEM may rely on the used oil generator's information which was provided to Vexor, as long as that information is passed along to GEM and provides the necessary information to demonstrate the sources of the halogens and why the halogenated constituents would not be considered a listed hazardous waste. Alternatively, GEM may rebut the presumption by analyzing incoming used oil demonstrating that each F001 and F002 listed hazardous waste constituent is below 100 ppm. For more information on this alternate demonstration, please refer to the following policy, specifically the section titled "Rebutting the Presumption - Using the Significant Concentration Approach found in OAC rule 3745-279-63(C). <http://www.epa.state.oh.us/dhwm/pdf/UsedOilBurnerGuidance.pdf>

GEM's response fails to rebut the presumption that the used oil it received from Capital City Road Oil has not been mixed with a listed hazardous waste. GEM relies solely on Capital City Road Oil's certification that the used oil has not been mixed with listed hazardous waste. However, the use of certifications to demonstrate used oil has not been mixed with a listed hazardous waste is based upon the used oil generator's process knowledge. Since Capital City Road Oil is not the generator of the used oil (Capital City Road Oil is a used oil transporter/transfer and processing facility), they cannot certify that the used oil has not been mixed with a listed hazardous waste. GEM may rely on the used oil generator's information which was provided to Capital City Road Oil, as long as that information is passed along to GEM and provides the necessary information to demonstrate the sources of the halogens and why the halogenated constituents would not be considered a listed hazardous waste. Alternatively, GEM may rebut the presumption by analyzing incoming used oil demonstrating that each F001 and F002 listed hazardous waste constituent is below 100 ppm. For more information on this alternate demonstration, please refer to the following policy, specifically the section titled "Rebutting the Presumption - Using the Significant Concentration Approach found in OAC rule 3745-279-63(C). <http://www.epa.state.oh.us/dhwm/pdf/UsedOilBurnerGuidance.pdf>

This violation remains outstanding. In order to have Ohio EPA retract these violations, GEM must obtain and submit adequate information to demonstrate that the used oil had not been mixed with a listed hazardous waste.

2. General Waste Analysis, OAC rule 3745-54-13

Since GEM is subject to the General Facility Standards - New Standards found in OAC chapters 3745-54 and 3745-55, GEM was required to meet the requirements found OAC rule 3745-54-13, General Waste Analysis, which includes properly characterizing waste prior to receiving it in order to treat, store, or dispose in accordance with the requirements found in OAC 3745-54 to 3745-57, 3745-205 and 3745-270.

During the August 9, 2007 inspection, Ohio EPA identified several profiles requiring additional information to determine if the secondary material being sent to GEM is used oil or a waste. The following profiles were identified as used oil: 1275, 1284, 1287, 1289, 1307, 1308, 1342, 1383, 1409, 1465, 1466, 1565, 1567, 1569, 1571, 1583, 4294 - AK Steel, 1092 N-G, 2074 N-L, 1698 ND-L, 1710 N-L, and 1679 N-G.

GEM provided additional information regarding the profiles within their response letter. However, GEM does not provide how or where the additional information was obtained. The information which is provided in the text of the response, regarding the profiles, is not part of the profiles found in the exhibit 8 attachment. In some cases, the information in the response letter does not match the information in the profile submitted. Additionally, GEM states that the profiles indicate the waste streams contain used oil. However, because a waste stream may have contained used oil does not mean that it is subject to the used oil management standards. For example, spent parts washing solvents which remove oil from parts may contain used oil, but the waste stream would be a waste (spent material) per OAC rule 3745-51-02 and therefore must be evaluated per the standards set forth in OAC rule 3745-52-11. **In order to address these violations, GEM must provide further information to either demonstrate the waste they have received meets the definition of used oil or must provide information on the characterization of the waste. Comments are provided below regarding the specific deficiencies for each profile.**

1275 - No information as to where/how process description in response letter was obtained. Information in letter differs from process description in profile. If process description in response letter is accurate, the secondary material would appear to meet the definition of used oil.

1284 - No information as to where/how process description in response letter was obtained. Information in letter differs from process description in profile. If process description in response letter is accurate, the secondary material would appear to meet the definition of used oil.

1287 - No information as to where/how process description in response letter was obtained. Additionally, no information as to discuss if the oil recovered from the plant is commingled with other plant wastewater streams. Also, there is no information provided that the oil recovered would meet the definition of a used oil since some steel mills will use oils that are not petroleum/synthetic based (e.g., animal/vegetable based).

1289 - No information as to where/how process description in response letter was obtained. Additionally, no information was obtained describing how this secondary material meets the definition of a used oil. Information provided in response letter could be interpreted to possibly be an unused commercial chemical product.

1307 - No information as to where/how process description in response letter was obtained. Additionally, if the process description from the response letter is accurate, this material may not meet the definition of a used oil. Spent cleaning/washing fluids are not used oil, but rather are wastes, which may be a hazardous waste, subject to the hazardous waste regulations (see this link to an article in DHWM's The Notifier, page 4, for further reference <http://www.epa.state.oh.us/dhwm/pdf/NotifierSpring07.pdf>). Furthermore, the oil removed from bar stock may not meet the definition of a used oil. (See link for more information regarding the definition of used oil, specifically the section "What is a used oil - Use" <http://www.epa.state.oh.us/dhwm/pdf/Used Oil Generators Guidance.pdf>).

1308 - No information as to where/how process description in response letter was obtained. Additionally, if the process description from the response letter is accurate, this material may not meet the definition of a used oil. Spent cleaning/washing fluids are not used oil, but rather are wastes, which may be a hazardous waste, subject to the hazardous waste regulations. Furthermore, the oil removed from bar stock may not meet the definition of a used oil. (See link for more information regarding the definition of used oil, specifically the section "What is a used oil - Use" <http://www.epa.state.oh.us/dhwm/pdf/Used Oil Generators Guidance.pdf>).

1342 - No information as to where/how process description in response letter was obtained. The information provided in the response differs significantly from the information in the profile provided. The profile describes the secondary material being from plant operations which include oil, water and filters, not as machining of steel in the manufacture of steel chains.

1383 - No information as to where/how process description in response letter was obtained. If the process description from the response letter is correct, this material may not be a used oil. The information provided indicates that this is a product line flush, not an oil which has been used.

1409 - No information as to where/how the process description in response letter was obtained. Information in letter differs from process description in profile. If process description in response letter is accurate, the secondary material would appear to meet the definition of used oil.

1465 - No information as to where/how the process description in response letter was obtained. Additionally, if the process description from the response letter is accurate, this material may not meet the definition of a used oil. Spent cleaning/washing fluids are not used oil, but rather are wastes, which may be a hazardous waste, subject to the hazardous waste regulations. Furthermore, the oil removed from bolts may not meet the definition of a used oil.

1466 - No information as to where/how the process description in response letter was obtained. If the process description from the response letter is correct, this material may not be a used oil, but rather a listed hazardous waste, K169, which may be exempt if the conditions of OAC rule 3745-51-06(A)(3)(d)(iii) are met.

1565 - No information as to where/how the process description in response letter was obtained. Due to the lack of information, it is unclear what type of secondary material this would be. If the secondary material is from an oil/water separator which receives waste from a variety of operations, then this would not be used oil, but a waste subject to evaluation per OAC rule 3745-52-11.

1567 - No information as to where/how the process description in response letter was obtained. Due to the lack of information, it is unclear what type of secondary material this would be. If the secondary material is from an oil/water processing facility which receives secondary materials which are not used oil, then the material GEM is receiving would not be a used oil, but a waste subject to evaluation per OAC rule 3745-52-11.

1569 - No information as to where/how the process description in response letter was obtained. Information in letter differs from process description in profile. If process description in response letter is accurate, the secondary material would appear to meet the definition of used oil.

1571 - No information as to where/how the process description in response letter was obtained. Additionally, if the process description from the response letter is accurate, this material may not meet the definition of a used oil. Spent cleaning/washing fluids/residues are not used oil, but rather are wastes (spent materials), which may be a hazardous waste, subject to the hazardous waste regulations. Furthermore, the oil removed from the parts may not meet the definition of a used oil.

1583 - No further information is required at this time regarding this profile.

4294(AK Steel Middletown Works) - No information as to where/how the process description in response letter was obtained. Furthermore, no information was provided how this material meets the definition of used oil. Wash oil from coke oven gases would not normally meet the definition of a used oil, but rather they would be a waste and possibly a listed hazardous waste, K143.

1092 - No information as to where/how process description in response letter was obtained. The information provided in the response differs significantly from the information in the profile provided. The profile describes the secondary material being generated from distillation operations in paint manufacturing with no mention of used oil in the process description section of the profile. If this is the case, then this secondary material would not be a used oil but a waste.

2074 - This secondary material is not a used oil. Since this is an abandoned drum, no information is known on its generation process. Therefore, it cannot be classified as a used oil and is a waste. If this material was characteristically hazardous, it was a hazardous waste.

1698 - No information as to where/how the process description in response letter was obtained. Due to the lack of information, it is unclear what type of secondary material this would be. If the secondary material is from an oil/water processing which receives secondary material which is not a used oil, then the material GEM is receiving would not be a used oil, but a waste subject to evaluation per OAC rule 3745-52-11.

1710 - No information as to where/how the process description in response letter was obtained. Due to the lack of information, it is unclear what type of secondary material this would be. If the secondary material is from an oil/water separator which receives waste from a variety of operations, then this would not be a used oil, but a waste subject to evaluation per OAC rule 3745-52-11.

1679 - No information as to where/how the process description in response letter was obtained. Additionally, if the process description from the response letter is accurate, this material may not meet the definition of a used oil. Spent cleaning/washing fluids are not used oil, but rather are wastes, which may be a hazardous waste, subject to the hazardous waste regulations. Furthermore, the oil removed from bar stock may not meet the definition of used oil.

July 24, 2007 Inspection

The violations and concerns listed below were observed by Ohio EPA during the July 24 and August 9, 2007 site inspections. In order to correct outstanding violations and concerns, GEM must do the following and send me the required information **within 15 days** of the date of this letter:

1. Waste Evaluation, OAC rule 3745-52-11:
GEM evaluated the yellow overpack container during the inspection and found it to contain non-hazardous debris left from a subcontractor. **This violation has been abated and no further response is required.**
6. Personnel Training, OAC rule 3745-65-16(C):
GEM submitted the requested training documentation. **This violation has been abated and no further response is required.**
7. Maintenance and Operation, OAC rule 3745-65-31:
GEM submitted photographs of the rolloff pad and an SOP for decontaminating the backhoe bucket. **This violation has been abated and no further response is required.**
8. Used Oil Management by Processors OAC rules 3745-279-54(D) and (F)
Used oil processors are required to provide secondary containment for existing aboveground tanks. Additionally, they are required to label aboveground tanks with the words "Used Oil." **Based upon my inspection on September 7, 2008, this violation has been abated and no further action is required at this time.**
9. Concern:
GEM addressed this concern during Ohio EPA's October 7, 2008 site visit. **No further response is required to this concern.**
10. Concern:
GEM addressed this concern and implemented a procedure to prevent a reoccurrence of the problem. **No further response is required to this concern.**
11. Concern:
This concern has now been incorporated into violations #1 and 2.

12. Concern:
GEM submitted the requested documentation for clarification. **No further response is required to this concern.**
13. Concern:
Profile 1565: Capital City Road Oil. **This concern is now part of violation #1 and 2.**

Furthermore, due to GEM's violations of ORC § 3734.02(E) and (F), Ohio EPA may assert its right to require GEM to begin facility wide clean up pursuant to the Corrective Action process under Ohio law.

Ohio EPA's Office of Compliance Assistance and Pollution Prevention (OCAPP) provides free compliance and pollution prevention assistance on environmental issues related to air, land and water. Pollution Prevention information has been provided to you in previous inspection letters. Should your facility be interested in further information please feel free to contact me or OCAPP. OCAPP may be contacted at: 800-329-7518 or <http://www.epa.state.oh.us/opp/ocapp.html>.

Should you have any question, please feel free to call me at (330) 963-1278 or at wade.balser@epa.state.oh.us. You can find copies of the rules and other information on the DHWM's web page at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Wade Balser
District Representative
Division of Hazardous Waste Management

WB:ddw

- cc: Scott Forster, General Environmental Management LLC
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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.