



State of Ohio Environmental Protection Agency

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**CERTIFIED MAIL # 91 7108 2133 3932 4450 6364**

January 15, 2008

Mrs. Beth Mowrey  
Manager  
Environmental Permits and Compliance  
The Shelly Company  
P.O. Box 266  
Thornville, Ohio 43076

**Re: Inspection of Shelly Materials (Shelly) Plant Number 62 (Facility ID 0123000206) on October 4, 2007; Notice of Violation**

Dear Mrs. Mowrey:

Thank you for the courtesy extended to my staff during the inspection of the above referenced plant. This inspection was in response to a complaint regarding strong odors emanating from Shelly Plant 62. As a result of this inspection, Central District Office (CDO) noted two important compliance issues, as described below:

As part of the inspection, my staff reviewed the records required by the applicable permit-to-install (PTI) for Plant 62. Specifically, PTI number 01-8567 has the following recordkeeping requirement.

*The permittee shall receive a chemical analysis with each shipment of on spec used oil from the supplier. The analysis shall identify the name and address of the supplier, the supplier's USEPA identification number, and the following information:*

- a. *date of shipment or delivery;*
- b. *quantity of on spec used oil received;*
- c. *the Btu value of the on spec used oil;*
- d. *the flash point of the on spec used oil;*
- e. *the arsenic content, in ppm;*

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Lee Fisher, Lieutenant Governor  
Chris Korleski, Director

- f. *the cadmium content, in ppm;*
- g. *the chromium content, in ppm;*
- h. *the lead content, in ppm;*
- i. *the PCB content, in ppm;*
- j. *the total halogen content, in ppm; and*
- k. *the mercury content, in ppm.*

My staff discovered, after reviewing the above described records, that Shelly Materials Plant 62 has received several thousand gallons of used oil containing a total halogen content greater than 1000 ppm. CDO has previously brought to your attention that the use of this material requires the supplier to demonstrate to Ohio EPA's Division of Hazardous Waste Management that the used oil does not contain any hazardous waste. Specifically, the applicable PTI "On-spec used oil containing more than 1000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under 40 CFR Part 266.40(c) and OAC rule 3745-279. Therefore, the permittee may receive and burn on-spec used oil exceeding 1000 ppm of total halogens (but less than 4000 ppm, maximum) only if the supplier ["marketer" in 40 Part CFR 266.43(a)] has demonstrated to Ohio EPA's Division of Hazardous Waste Management that the on-spec used oil does not contain any hazardous waste."

Unfortunately, CDO was unable to find any evidence that the supplier has made a demonstration to Ohio EPA's Division of Hazardous Waste Management that the on-spec used oil does not contain any hazardous waste. Ohio Revised Code (ORC) 3704.05(C) states "No person who is a holder of a permit issued under division (F) or (G) of section 3704.03 of the Revised Code shall violate any of its terms or conditions".

Shelly's failure to comply with the above stated requirement constitutes a violation of the applicable PTI and ORC 3704.05(C).

My staff also discovered during the site visit that Shelly has already moved forward and completed the conversion of emission unit P901 from a batch type design to a continuous mix design. This conversion matches the physical plant modifications described in your February 16, 2007 letter. You may recall that on March 27, 2007, CDO provided you with a detailed explanation of why such a conversion triggers the requirement for a new PTI. Based upon the reasons described in the aforementioned letter from CDO and the fact that the plant conversion has already occurred, CDO has concluded that Shelly has violated

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OAC rule 3745-31-02(A)(1), which states, "Except as provided in rule 3745-31-03 of the Administrative Code, no person shall cause, permit, or allow the installation of a new source of air pollutants, or cause, permit, or allow the modification of an air contaminant source, without first obtaining a permit-to-install from the director."

In order to address this compliance deficiency, CDO is now requesting Shelly submit the date by which complete PTI and PTO applications will be submitted for the above described emissions unit.

Please submit all of the above requested information within 30 days of receipt of this letter. Also, note that this letter does not constitute a waiver of Ohio EPA's authority to seek civil penalties as provided in Ohio Revised Code 3704.06. Ohio EPA will decide whether to pursue or decline to pursue penalties regarding this matter at a later date.

If you have any questions, please do not hesitate to contact Todd Scarborough of my staff at (614) 728-3813.

Sincerely,



Mike Riggelman  
Supervisor, Permits and Compliance  
Division of Air Pollution Control  
Central District Office

c: Todd Scarborough, DAPC/CDO  
Adam Ward, DAPC/CDO  
John Paulian, DAPC/CO