



**Environmental
Protection Agency**

Ted Strickland, Governor
Lee Fisher, Lt. Governor
Chris Korieski, Director

Hand Delivered
June 14, 2010

**Re: Citywide Waste Removal
(CWR)**
DHWM Complaint Investigation
Used Oil Processor
Hamilton County, SWDO
Notice of Violation

Mr. Joe Lyons
Citywide Waste Removal
100 Murray Rd.
Cincinnati, OH 45217

Dear Mr. Lyons:

On April 19, 2010, Ohio EPA received a complaint submitted by Indiana DEM alleging improper shipping and disposal of hazardous waste received at your facility CWR in October of 2009.

On April 21, 2010, George Strobel and I observed and documented numerous site conditions:

Used oil was being stored in multiple locations (leaking containment area surrounding associated with large above ground storage tanks, an open drum with oily sludge and a rolloff box partially filled with oil-see Pictures marked as A).

Additionally, the rolloff box contained oil stained soil within it and in a pile next to it (see Picture marked as B).

CWR also has numerous areas of soil staining. Most appear to be used oil related (see Pictures marked as C); some were a copper color (one possibly from a spray can) and did not look oily (see Pictures marked as D).

Also, we saw some ballasts on the ground at the rear of your facility (see Picture marked as E). Some potentially have PCBs given they appeared to be older GE types (see Pictures marked as F&G).

Finally, we saw drums that appeared to have antifreeze in them (see Picture marked as H).

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We attempted to call you on April 21, 2010 to meet us at CWR, but you were out of town and scheduled to meet us on April 23, 2010. We, along with Robert Evans the Environmental Health Director of the City of St. Bernard, met with you on April 23, 2010. Mr. Evans dealt with the solid waste violations. You explained that CWR originally had intentions to recycle the various debris, but could not recycle them after all. If you would like to attempt recycling again, please contact Holly Hilyer with Ohio EPA's Division of Solid and Infectious Waste (937-285- 6072) and Mr. Evans with the City of St. Bernard to find out what the regulations are for this type of activity.

You had removed some of the used oil from your site (notably oil you had stored in the leaking containment area documented in Pictures A). It was your understanding that CWR had a SPCC plan in place and could store large amounts of used oil for speculative accumulation purposes. I explained that you were issued a Contingency and Emergency Procedures Plan solely for your used oil processing. CWR must either bring the amount of oil stored below a total aboveground storage capacity below 1,320 gallons or abide by the SPCC requirements. I am enclosing a fact sheet regarding SPCC requirements for your reference. Please note, the containment surrounding your large aboveground storage tanks would not be adequate given it leaks.

Also, on April 23, 2010, you placed the drums of antifreeze waste inside your building. You explained that you send your antifreeze to a recycler in Harriman TN. We are enclosing a list of universal waste recyclers and info about ballasts; you believed the oil to still be in the ballasts. You picked up the ballasts, packaged them and placed them inside your building during our 4/23/10 meeting.

We found the following violations of Ohio's Used Oil Requirements on 4/21/10 and 4/23/10:

***Used Oil Storage Requirements for Generators
OAC 3745-279-22(C)***

Containers used to store used oil at generator facilities must be labeled with the words "Used Oil".

CWR failed to label any containers with the words "Used Oil" (see Pictures A).

- CWR must immediately label any containers with the words "Used Oil" and submit documentation of their labeling to Ohio EPA for our review.

***Used Oil Storage Requirements for Generators
(OAC 3745-279-22(D))***

Upon detection of a release of used oil to the environment, a generator shall stop, contain and clean up/properly manage the released used oil described above.

CWR failed to clean up the used oil released to the soil (documented in Pictures C).

- CWR must immediately develop and implement a plan to clean up used oil released to the environment and submit documentation of your cleanup to Ohio EPA for our review. Your cleanup should entail removal of soil until oil staining is no longer visible. This soil, along with the used oil stained soil in and next to the rolloff box documented in Picture C, can probably be disposed of as a solid waste given they should have no freestanding liquid. Please confirm this with your solid waste hauler.

Ohio EPA has the following concern:

CWR is not properly recycling or disposing of universal wastes or ballasts. Please refer to the enclosed universal waste recycling and ballasts information.

- CWR must address this concern in writing and submit it to Ohio EPA for our review.

Additionally, we discussed the drum of sodium hydroxide waste that CWR transported from Franklin County Indiana. You stated that this 30 gallon drum was overpacked into a 55 gallon drum. On April 21, 2010, Dean Nicholas with Safety Kleen provided Ohio EPA with sampling results of this drum. This drum, based upon EPA sampling methods, was above a pH of 2 and below the 12.5 pH threshold for corrosivity (D002, hazardous waste). Therefore, the findings of our investigation of the initial complaint forwarded to us by IDEM have not revealed any improper management of hazardous waste(s). We will be forwarding the findings of our investigation on to IDEM.

Finally, CWR must be made aware of corrective action requirements. Based on the information within our records (and the recent discovery of stained soil identified in Pictures D), Ohio EPA determined that the facility became subject to the Resource Conservation and Recovery Act (RCRA) Corrective Action requirements within Ohio Administrative Code (OAC) Chapter 3745-54-101 as a result of the following events or activities listed below:

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Site is identified as having hosted long term hazardous waste storage activities through information submitted to both U.S. EPA and Ohio EPA by former site owner/operator, Ashland Chemical Company.

The above noted activity is associated with the various types of hazardous waste management requiring a permit, including treatment, storage, or disposal of hazardous waste(s). Under RCRA Corrective Action, a treatment, storage, or disposal facility is responsible for investigating and, as necessary, cleaning up any hazardous waste or hazardous constituent releases at or from their waste management units at their facility, regardless of when they occurred.

According to Ohio Administrative Code rule 3745-50-10, a waste management unit is defined as any discernible unit at which waste has been placed at any time, irrespective of whether the unit was intended for the management of waste. Such units include any area at a facility in which solid waste, hazardous waste, infectious waste, construction and demolition debris, industrial waste, or other waste has been routinely and systematically released. In March 1993, a U.S. EPA contractor performed a preliminary assessment visual site inspection (PA/VS) and discovered 3 solid waste management units (SWMUs) and 1 area of concern (AOCs) at the site.

Based on a recent evaluation of the above-noted file information, Ohio EPA DHWM does not view the current site conditions at CWR as representing an imminent threat to either human health or the environment that would warrant any short term response actions by either of our respective organizations. However, please note that CWR's site, located at 100 Murray Road in Cincinnati, Ohio remains subject to the regulatory obligation of addressing waste management units and its area of concern under the RCRA Corrective Action program requirements.

Ohio EPA will not require further RCRA Corrective Action at a facility as long as it is eligible for the VAP (e.g., the facility is not required by a federal or state order or permit to perform corrective action), and successfully fulfills its obligations by obtaining a covenant not to sue from Ohio EPA. However, Ohio EPA reserves its rights regarding RCRA Corrective Action under Ohio law for any areas that are not fully addressed by the voluntary action.

Under the VAP, a volunteer who complies with all program requirements (Ohio Revised Code Chapter 3746, Ohio Administrative Code Section 300) and certifies that the property has been cleaned to acceptable standards, will be issued a covenant not to sue (CNS) by the director of Ohio EPA. A CNS protects the volunteer from state civil liability associated with the cleanup.

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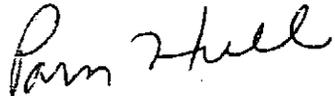
There are two tracks a volunteer may enter in Ohio's VAP. The first option is the VAP-Classic track, where a volunteer proceeds with work on their own, and at the end of the process, a Certified Professional issues a No Further Action letter for review. The second option is the VAP-Memorandum of Agreement track (MOA). The VAP-MOA track is an agreement between Ohio EPA and U.S. EPA which allows facilities to also receive comfort from U.S. EPA that no additional cleanup would be needed. More information on the VAP-MOA track may be found at: http://www.epa.state.oh.us/dhwm/rcra_vapmoa.html

Both VAP tracks contain the same cleanup standards, however, the VAP-MOA track includes public involvement and incorporates oversight and document review by Ohio EPA regarding the voluntary action. More information on the VAP can be found at <http://www.epa.state.oh.us/derr/volunt/volunt.html>.

Please address the amount of used oil stored on site, violations and concern identified above **within 30 days** upon your receipt of this letter. Enclosed you will find a copy of the checklists that we completed as a result of the complaint investigation. You can find copies of the rules and other information on the division's web page at: <http://www.epa.state.oh.us/dhwm/>.

Should you have any questions associated with the contents of this correspondence please me at (937) 285-6091.

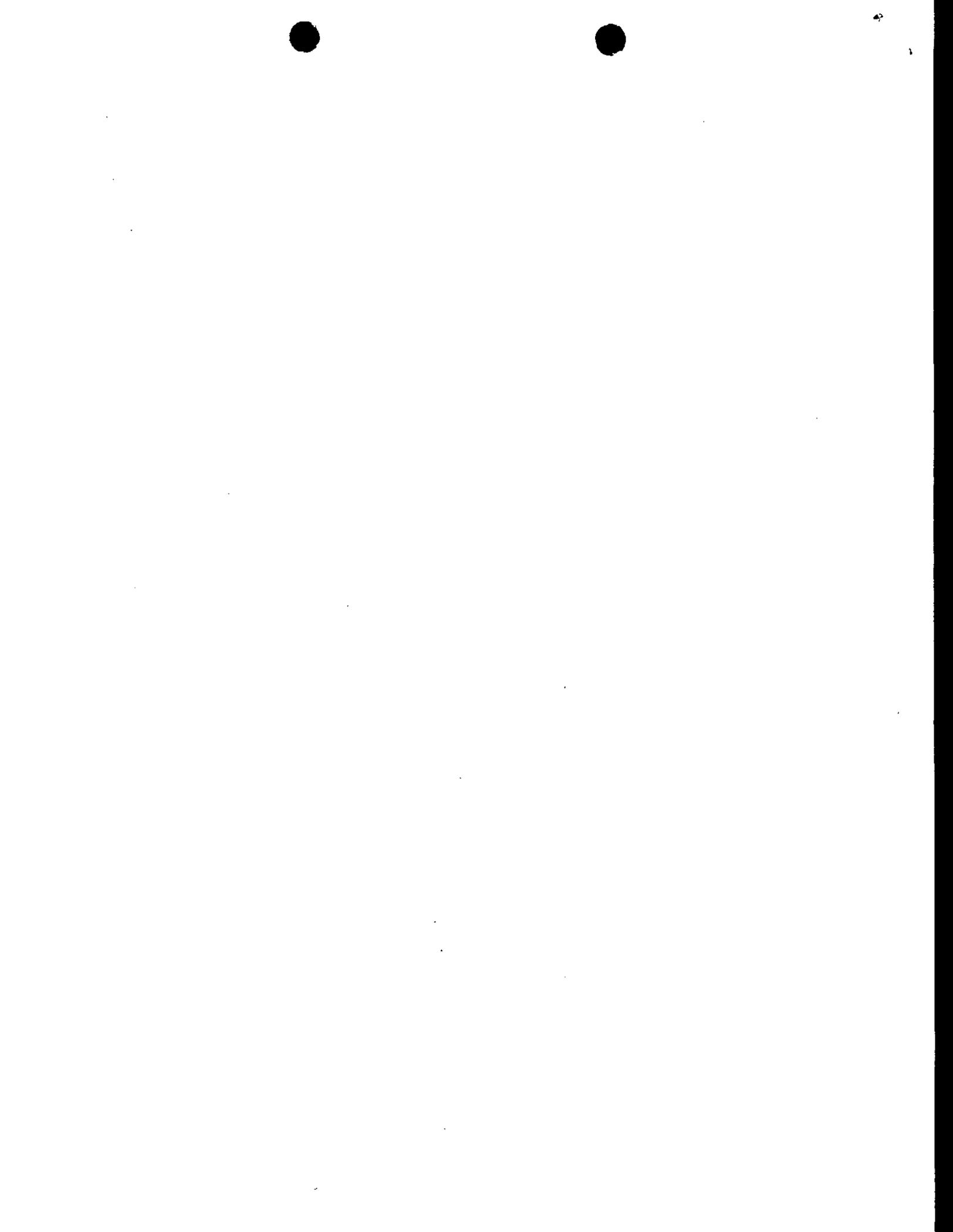
Sincerely,



Pam Hull
District Representative
Division of Hazardous Waste Management

PH/ka

cc: Robyn Fox/Facility File
Facility File: Citywide Waste Removal, Used Oil Processor, OHR000034314,
Hamilton County



**USED OIL INSPECTION CHECKLIST
GENERATORS, COLLECTION CENTERS AND AGGREGATION POINTS**

NOTE: 1. A facility is subject to the federal SPCC regulations (40 CFR 112) if it is non-transportation related (e.g., fixed) and has an aggregate above ground storage capacity greater than 1,320 gallons or a total underground storage capacity greater than 42,000 gallons of oil (including used oil), and there is reasonable expectation of a discharge to navigable waters.

2. Inspectors can check BUSTR's web-site at https://www.comapps.ohio.gov/sfm/fire_apps/bust/bustr/PublicInquiry.asp to determine if a UST containing used oil is registered with BUSTR. Inspectors may call BUSTR at 614-752-7938 or a BUSTR site coordinator to report an unregistered UST or a UST that appears to not be in compliance with BUSTR regulations. A list of BUSTR coordinators by county are at: https://www.comapps.ohio.gov/sfm/fire_apps/bust/bustr/SearchByCounty.asp.

PROHIBITIONS

1.	Does the generator manage used oil in a surface impoundment or waste pile? If yes:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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a.	Is the surface impoundment or waste pile regulated as a hazardous waste management unit? [3745-279-12(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
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NOTE: For example, used oil contaminated scrap metal stored in a pile.

2.	Is used oil used as a dust suppressant? [3745-279-12(B)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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3.	Is off-specification used oil fuel burned for energy recovery in devices specified in 3745-279-12(C)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
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NOTE: Multiple used oil checklists may be applicable if used oil handler is performing multiple tasks (e.g., if generating used oil and shipping directly to a burner, complete generator and marketer checklists at a minimum).

GENERATOR STANDARDS

4.	Does the generator mix hazardous waste with used oil? If so,	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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a.	Is the mixture managed as specified in 3745-279-10(B)? [3745-279-21(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
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NOTE: Used Oil mixed with listed (3745-51-30 to 3745-51-35) or characteristic (3745-51-20 to 3745-51-24) hazardous waste are subject to regulation as a hazardous waste, unless the listed hazardous waste is listed solely because it exhibits a hazardous characteristic, and the resultant mixtures do not exhibit a characteristic. Mixtures of used oil and CESQG hazardous waste are subject to OAC Chapter 3745-279.

5.	Does the generator of a used oil containing greater than 1,000 ppm total halogens manage the used oil as a hazardous waste unless the presumption is rebutted successfully? [3745-279-21(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
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NOTE: If used oil contains greater than 1000 ppm total halogens, it is presumed to be listed hazardous waste until the presumption is successfully rebutted.

6.	Does the generator store used oil in tanks; or containers; or a unit(s) subject to regulation as a hazardous waste management unit? [3745-279-22(A)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
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7.	Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)] (See Comment 1)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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8.	Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil"? [3745-279-22(C)] (See Comment 2)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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9.	Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)] (See Comment 3)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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a.	Stopped the release? (See Comment 3)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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b.	Contained the release? (See Comment 3)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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c.	Cleaned up and properly managed the used oil and other materials? (See Comment 3)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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d.	Repaired or replaced the containers or tanks prior to returning them to service, if necessary? (See Comment 3)	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
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ON-SITE BURNING IN SPACE HEATER		
10.	Does the generator burn used oil in used-oil fired space heaters? [3745-279-23] If so:	
a.	Does the heater burn only used oil that owner/operator generates or used oil received from household do-it-yourself (DIY) used oil generators?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Is the heater designed to have a maximum capacity of not more than 0.5 million BTU per hour?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
c.	Are the combustion gases from heater vented to the ambient air?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>NOTE: Ash accumulated in a space heater must be managed in accordance with 3745-279-10(E).</i>		
GENERATOR TRANSPORTATION		
11.	Does the generator have the used oil hauled only by transporters that have obtained a U.S. EPA ID#? [3745-279-24] (See Comment 4)	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
12.	If the generator self-transport used oil to an approved collection site or to an aggregation point owned by the generator: [3745-279-24]	
a.	Does the generator transport used oil in a vehicle owned by the generator or an employee of the generator? [3745-279-24]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Does the generator transport more than 55 gallons of used oil at any time? [3745-279-24]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>NOTE: Used oil generators may arrange for used oil to be transported by a transporter without a U.S. EPA ID # if the used oil is reclaimed under a contractual agreement (i.e., tolling arrangement).</i>		
COLLECTION CENTERS AND AGGREGATION POINTS		
13.	Is the DIY used oil collection center in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-30]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
14.	Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
15.	Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>NOTE: Complete Used Oil Generator and any other applicable used oil handler checklist (e.g., marketer, burner, etc.) for used oil collection centers and aggregation points.</i>		

- Comment 1** The containment wall associated with some large aboveground tanks was full of full-strength oil and leaking.
- Comment 2** The large aboveground tanks (only) were labeled with the words "Used Oil". Also, I made CWR aware that storing more than 1320 gallons, that they must follow SPCC requirements.
- Comment 3** Documented numerous releases that had not been contained, cleaned up. Also, observed damage to containment area that allowed used oil to leak through.
- Comment 4** CWR is a used oil transporter.

Send to Central Office <input type="checkbox"/>	Ohio Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM	For Ohio EPA use only
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Completed verification forms required to be submitted to CO should be e-mailed to paula.canter@epa.state.oh.us.

Site EPA ID No. Site Name	EPA ID Number: OHR000117143		Website: (Optional)
Site Location Information	Name: Citywide Waste Removal		Street Address: 100 Murray Rd.
Site Land Type (check only one) NAICS code(s) www.census.gov/epcd/www/naics.html	City, Town, or Village: Cincinnati	State: OH	
	County Name: Hamilton	Zip Code: 45217	
	Private <input checked="" type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>
	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>
	State <input type="checkbox"/>	Other <input type="checkbox"/>	

Facility Representative Additional names can be recorded in number 12 Only provide address information if it is different than the site address	First Name: Joe	MI:	Last Name: Lyons
	Title:		
	Phone Number: 513-615-2341		Phone Number Extension:
	E-Mail Address: citywide.joe@fuse.net		
	Fax Number: 513-641-2970		Fax Number Extension:
	Street or P.O. Box:		
	City, Town or Village:		
	State:		Zip Code:

Legal Owner And Operator of the Site. List Additional Owners and/or Operators in the Comment Section or on another copy of this form page	Name of Site's Legal Owner: City Wide Waste Removal		Date Became Owner (mm/dd/yyyy): 12/09/2002	
	Owner Type:	Private <input checked="" type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>
	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>
	Other <input type="checkbox"/>	Street or P.O. Box: 4070 Blue Ridge		
	City, Town or Village: Batavia		Owner Phone #: 513-615-2341	
	State: OH		Country: USA	
	Zip Code: 45217		Name of Site's Operator: Joe Lyons	
	Date Became Operator (mm/dd/yyyy): 12/09/2002		Operator Type:	
	Private <input checked="" type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>
	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box: 100 Murray Rd.			
	City, Town or Village: Cincinnati		Operator Phone #: 513-615-1954	
	State: OH		Country: USA	
	Zip Code: 45217			

VIOLATIONS CITED?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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TYPE OF HANDLER - MARK "X" AS APPROPRIATE	
<input checked="" type="checkbox"/> Not a HW Generator	<input type="checkbox"/> UNKNOWN: Cited for violation of 3745-52-11
	<input type="checkbox"/> Short-Term Generator (generates from a short-term or one-time event and not from on-going processes). <i>Check the box for the applicable generator status and provide a comment.</i>
	<input type="checkbox"/> Large Quantity Generator (LQG)
	<input type="checkbox"/> Small Quantity Generator (SQG)
	<input type="checkbox"/> Conditionally Exempt Small Quantity Generator
	<input type="checkbox"/> U.S. Importer of Hazardous Waste
	<input type="checkbox"/> Mixed Waste (Hazardous and Radioactive) Generator

TYPE OF REGULATED WASTE ACTIVITY (MARK "X" IN ALL OF THE APPROPRIATE BOXES)

- | | |
|---|--|
| <input type="checkbox"/> Hazardous Waste Transporter | <input type="checkbox"/> Exempt Boiler and/or Industrial Furnace |
| <input type="checkbox"/> Hazardous Waste Transfer Facility | <input type="checkbox"/> Small Quantity On-Site Burner Exemption |
| <input type="checkbox"/> Treater, Storer or Disposer of Hazardous Waste | <input type="checkbox"/> Smelting, Melting, Refining Furnace Exemption |
| <input type="checkbox"/> Recycler of Hazardous Waste | <input type="checkbox"/> Underground Injection Control Facility |
| | <input type="checkbox"/> Receives Hazardous Waste from Off-site |

UNIVERSAL WASTE ACTIVITIES (INDICATE TYPES OF UNIVERSAL WASTE MANAGED (CHECK ALL BOXES THAT APPLY))

- | | |
|--|---|
| <input type="checkbox"/> Small Quantity Handler of Universal Waste | <input type="checkbox"/> Destination Facility for Universal Waste |
| <input type="checkbox"/> Large Quantity Handler of Universal Waste (accumulates 5,000 kg. or more) | |

CHECK ALL BOXES BELOW THAT APPLY FOR THE TYPES OF UNIVERSAL WASTE THE FACILITY MANAGES

- Batteries
 Pesticides
 Mercury containing equipment
 Lamps

USED OIL ACTIVITIES (INDICATE TYPE(S) OF ACTIVITY(S))

- Used Oil Generator
 Used Oil Transporter
 Used Oil Transfer Facility
 Used Oil Processor
 Used Oil Re-refiner
 Off-Specification Used Oil Burner
 Used Oil Fuel Marketer Who Directs Shipment of Off-Spec. Oil
 Used Oil Fuel Marketer to Off-Specification Used Oil Burner

Waste Codes for Federally Regulated Hazardous Wastes. Please list the codes for the federally regulated hazardous waste handled at the site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page or list them in the comments if more space is needed. If the waste codes are the same as listed in the most recent RCRAInfo source record, you do not need to list them. Instead just indicate the date of the most recent source record.

COMMENTS: USE THIS AREA TO DESCRIBE WHETHER THE INSPECTION WAS ANNOUNCED, WHETHER THE WASTE IS STORED IN TANKS OR CONTAINERS, ETC.

Announced Yes No Additional Facility Representatives:
 Tanks Yes No
 Containers Yes No

Name of Inspector(s)	Name of Inspector(s)	Date of Inspection/Time (mm/dd/yyyy) (hh:mm)
Pam Hull	George Strobel	04/21/2010 (unannounced) 04/23/2010

Comments:
 Hand delivered NOV to Mr. Lyons on 6/14/10 (for used oil generator violations). Complaint investigation alleging illegal transportation/disposal of hazardous waste was unfounded, but did find numerous solid waste violations, addressed by St. Bernard Health Department, and two used oil generator violations. Most of violations were addressed while I was at the location & hand-delivering NOV.