

**Environmental  
Protection Agency**

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

May 19, 2011

**RE: BENCIN MATERIAL HAULING &  
DISPOSAL SERVICES, INC.  
COMPLAINT #7415  
NON-GENERATOR  
SUMMIT COUNTY**

Mark Malbin  
President  
Bencin Material Hauling & Disposal, Inc.  
2636 Brecksville Road  
Richfield, Ohio 44286

Dear Mr. Malbin:

On April 14, 2011, Ohio Environmental Protection Agency (Ohio EPA), Division of Materials and Waste Management (DMWM) inspected Bencin Material Hauling & Disposal Services, Inc. (Bencin) located at 2636 Brecksville Road in Richfield, Ohio. The purpose of the visit was to investigate a complaint received by Ohio EPA alleging that solid waste, construction and demolition debris, used oil and hazardous materials are being buried on the property. Jeff Malbin represented the business during our inspection. The Ohio EPA was represented by Dave Dysle, Tom Roth and me.

The facility provides landscape materials including mulch, roll-off containers for solid waste, and dump trucks. Another business, DJM Truck Sales, is located in the furthest "bay" of the main building. DJM Truck Sales was not part of the complaint investigation but was inspected as a conditionally exempt small quantity generator of hazardous waste. Any correspondence with DJM Truck Sales will be separate from correspondence with Bencin.

We walked the property and inside the buildings. Dave Dysle will send you a letter under separate cover regarding any solid waste violations he may have noted. My letter will address any violations of the hazardous waste, universal waste or used oil violations.

I have enclosed copies of the inspection checklists used for this investigation and copies of the pictures that I took.

The following violation of the used oil rules was noted:

- 1. Ohio Administrative Code (OAC) 3745-279-22(C)(1); Containers and above ground tanks that are used to store used oil must be labeled with the words, "Used Oil."**

We noted various sized containers, a tote and drip pans containing used oil in the maintenance garage and the room where the used oil space heater is located. None of the containers or drip pans was labeled with the words "used oil."

To abate the violation, please provide photographs showing that the containers and drip pans of used oil have been labeled with the words used oil.

Mark Malbin  
Bencin Material Hauling & Disposal, Inc.  
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**CONCERNS:**

We observed several areas of stained concrete inside and outside of the maintenance garage and the used oil space heater building. Ohio EPA recommends that Bencin stop the release of used oil that is causing the staining and clean it up and properly manage the used oil and other materials generated during cleanup. Any material you generate from the cleanup may be managed as solid waste in a trash dumpster, provided that this is acceptable to your trash hauler.

Bencin burns used oil on site in a used oil space heater. You may burn used oil in used oil-fired space heaters provided that:

- a. The heater burns only used oil that the owner or operator generates or used oil received from household do-it-yourself used oil generators;
- b. The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and
- c. The combustion gases from the heater are vented to the ambient air.

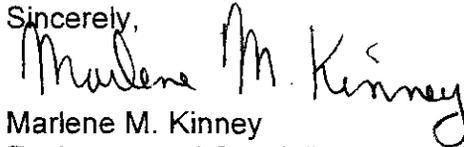
Please send documentation that demonstrates that Bencin has met the above listed criteria.

Please respond to this letter within 30 days of the date on the letter. Failure to list specific deficiencies and/or violations in this communication does not relieve you from the responsibility of complying with all applicable laws, rules and regulations.

You can find copies of the rules and other information on the division's web page at <http://www.epa.ohio.gov.dhwm>.

Should you have any questions, please feel free to call me at (330) 963-1162.

Sincerely,



Marlene M. Kinney  
Environmental Specialist  
Division of Materials Waste Management

MMK/cl  
Enclosures

ec: Jeff Mayhugh, DMWM, CO  
Nyall McKenna, DMWM, NEDO  
Tom Roth, DWWM, NEDO

Natalie Oryshkewych, DMWM, NEDO  
Scott Shane, OSI, CO  
Reggie Brown, DERR, NEDO

Send to Central Office



Ohio Environmental Protection Agency  
RCRA SUBTITLE C SITE  
IDENTIFICATION/VERIFICATION FORM

For Ohio EPA use only

Completed verification forms required to be submitted to CO should be e-mailed to [brad.hauser@epa.state.oh.us](mailto:brad.hauser@epa.state.oh.us).

<b>Site EPA ID No.</b>	EPA ID Number:	
	<b>Site Name</b>	Name: <b>Bencin Material Hauling &amp; Disposal Services, Inc</b> Website: (Optional)
<b>Site Location Information</b>	Street Address: <b>2636 Brecksville Road</b>	
	City, Town, or Village: <b>Richfield,</b>	State: <b>OH</b>
	County Name: <b>Summit</b>	Zip Code: <b>44286</b>
<b>Site Land Type</b> (check only one) <b>NAICS code(s)</b> <a href="http://www.census.gov/epcd/www/naics.html">www.census.gov/epcd/www/naics.html</a>	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"/>

<b>Facility Representative</b>  Additional names can be recorded in number 12  Only provide address information if it is different than the site address	First Name: <b>Mark</b>	MI:	Last Name: <b>Malbin</b>
	Title: <b>President</b>		
	Phone Number: <b>330-659-2556</b>		Phone Number Extension:
	E-Mail Address:		
	Fax Number:		Fax Number Extension:
	Street or P.O. Box:		
	City, Town or Village:		
	State:		Zip Code:

<b>Legal Owner And Operator of the Site.</b> List Additional Owners and/or Operators in the Comment Section or on another copy of this form page	Name of Site's Legal Owner:		Date Became Owner (mm/dd/yyyy):									
	Owner Type:	Private <input 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:				Owner Phone #:							
	City, Town or Village:				Country:		Zip Code:					
	State:				Date Became Operator (mm/dd/yyyy):							
	Name of Site's Operator:		Operator Type:		Private <input 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:				Operator Phone #:							
	City, Town or Village:				Country:		Zip Code:					
	State:				Date Became Operator (mm/dd/yyyy):							

**VIOLATIONS CITED?**  Yes  No

**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"/> Large Quantity Generator (LQG)
<input type="checkbox"/> Short-Term/Temporary Generator (generates from a short-term or one-time event and not from on-going processes). Check the box for the applicable generator status and provide a comment.	<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



**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](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](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"/>
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"/>

*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"/>
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"/>

*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"/>
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"/>

*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"/>
7.	Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
8.	Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
9.	Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)] <i>Release to concrete</i>	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
a.	Stopped the release?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Contained the release?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
c.	Cleaned up and properly managed the used oil and other materials?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
d.	Repaired or replaced the containers or tanks prior to returning them to service, if necessary?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

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? <i>must submit information</i>
		Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input 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"/>
NOTE: Ash accumulated in a space heater must be managed in accordance with 3745-279-10(E).		
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]	
		Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" 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"/>
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).		
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"/>
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.		