



State of Ohio Environmental Protection Agency

Northeast District Office

2110 East Aurora Rd.
Twinsburg, Ohio 44087

TELE: (330) 963-1200 FAX: (330) 487-0769
www.epa.state.oh.us

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

November 8, 2007

**RE: Complaint # 6840
Dagleish's Garden Center &
Landscaping
Lorain County
Partial Return to Compliance**

Mr. Scott Dagleish
Dagleish's Garden Center & Landscaping
850 Center Road
Avon, Ohio 44011

Dear Mr. Dagleish:

On October 24, 2007, I conducted a follow-up compliance inspection to the September 18 and 20, 2006, complaint investigation at Dagleish's Garden Center & Landscaping (Dagleish) facility located at 850 Center Road, Avon, Ohio. Notes were written and photographs were taken. According to the complaint received by the Ohio EPA, the complainant alleged, in part, that Dagleish changes oil from onsite equipment and either dumps it on the ground or leaves the containers out so that rain water overflows the container and the oil/water mixture enters the ditch and flows to Lake Erie.

A Notice of Violation (NOV) letter was sent on October 19, 2006, and resent on March 12, 2007. On November 7, 2006, I received a letter from you stating that you now would be the one responsible for responding to the NOV in place of your father, and that additional time would be needed to respond.

On October 24, 2007, you gave me a letter dated April 27, 2007, addressing corrective actions taken on the findings of the Ohio EPA investigation. I asked you to sign the letter. You also gave me MSDS sheets, and I copied information from a Chemtron Corporation (Chemtron) waste manifest. You said you had sent your response in April 2007, however, I did not receive it at my office.

I inspected Dagleish to determine compliance with Ohio's hazardous waste laws as found in Chapter 3734. of the Ohio Revised Code (ORC) and Chapter 3745. of the Ohio Administrative Code (OAC).

My inspection revealed that Dagleish has now abated all violations discovered during the September 18 and 20, 2007, inspection minus testing the flash point of the used partswasher fluid. I also continue to comment that the yellow used oil tank should be inspected to determine if it is leaking and it should be moved to make it accessible.

The following violations have been abated.

1. ***OAC Rule 3745-279-22(B), Used oil containers must be in good condition and not leaking.***

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2. ***OAC Rule 3745-279-22(D), Generator must respond to used oil releases, cleanup and properly manage used oil, and repair or replace containers prior to returning them to service.***
3. ***OAC Rule 3745-279-22(C)(1), Used oil containers and above ground tanks must be labeled with the words "Used Oil."***
4. ***OAC Rule 3745-279-24, Off-site transport of used oil***
5. ***OAC Rule 3745-52-11, Hazardous waste determination.***
Contents of broken bags
Drums

Dalglish remains in violation of OAC Rule 3745-52-11, Hazardous waste determination for the partswasher waste.

Dalglish has failed to submit full documentation regarding the partswasher waste evaluation and proper characterization as requested in the October 19, 2006, NOV letter. On October 24, 2007, Dalglish provided the MSDS sheet which indicated a flash point of 140-160 F. In addition, please provide the results of an appropriate flash point test specified in OAC 3745-51-21(A)(1). This waste characterization may be available through Chemtron. Your response states that Chemtron will transport partswasher waste whenever necessary.

General comments:

This comment still stands. Ohio EPA believes that the yellow used oil tank should be inspected to determine that the tank is not leaking. If the tank is continued to be used, the tank should be moved such that the oil can be poured into it with a funnel. The opening for the oil to be poured into the tank is not readily accessible.

Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve Dalglish from having to comply with all applicable regulations.

If you have any questions, please feel free to contact me at (330) 963-1214.

Sincerely,



Kim Gallagher
Environmental Specialist
Division of Hazardous Waste Management

KG:cl

cc: James Belt, ODAP Enforcement
Dan Bogoevski, DSW, NEDO
Clarissa Gereby, DSIWM, NEDO
Lorain County Health Department
Natalie Oryshkewych, DHWM, NEDO

ec: Frank Popotnik, DHWM, NEDO

11/04/04

USED OIL INSPECTION CHECKLIST (Short Version)

NOTE: This checklist does not include requirements for used oil transporters and transfer facilities, processors and re-refiners, burners, and marketers.

PROHIBITIONS

1. Is used oil being managed in a surface impoundment or waste pile? If so: Yes ___ No N/A ___ RMK# ___
- Is the surface impoundment or waste pile being regulated under OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-12(A)] Yes ___ No N/A RMK# ___
2. Is used oil being used as a dust suppressant? [3745-279-12(B)] Yes No N/A ___ RMK# ___
3. Is off-specification used oil fuel burned for energy recovery only in devices specified in 3745-279-12(C)? Yes ___ No N/A ___ RMK# ___

USED OIL GENERATOR STANDARDS

4. Does the generator mix hazardous waste with used oil only as provided in 3745-279-10(B)? [2745-279-21(A)] Yes ___ No N/A RMK# ___
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 ___ No N/A RMK# ___
6. Does the generator only store used oil in tanks, containers, or units subject to OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-22(A)] Yes No N/A ___ RMK# ___
7. Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)] Yes ___ No N/A ___ RMK# ___
8. Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)] Yes ___ No N/A ___ RMK# ___
9. Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)]
- a. Stopped the release? Yes ___ No N/A ___ RMK# ___
- b. Contained the release? Yes ___ No N/A ___ RMK# ___

- c. Cleaned up and properly managed the used oil and other materials? Yes ___ No N/A ___ RMK# ___
- d. Repaired or replaced the containers or tanks prior to returning them to service, if necessary? Yes ___ No N/A ___ RMK# ___
10. Does the generator burn used oil in used fired space heaters? [3745-279-23] If so: Yes ___ No N/A ___ RMK# ___
- 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 ___ No N/A ___ RMK# ___
- b. Is the heater designed to have a maximum capacity of not more than 0.5 million BTU per hour? Yes ___ No N/A RMK# ___
- c. Are the combustion gases from heater vented to the ambient air? Yes ___ No N/A RMK# ___
11. Does the generator have the used oil hauled only by transporters that have obtained U.S. EPA ID#, unless the generator qualifies for an exemption pursuant to 3745-279-24 (self transportation or tolling agreements)? [3745-279-24] Yes ___ No N/A ___ RMK# ___

USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

12. 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 ___ No N/A RMK# ___
13. Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31] Yes ___ No N/A RMK# ___
14. Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32] Yes ___ No N/A RMK# ___

WASTE EVALUATION

15. Have all wastes generated at the facility been evaluated? [3745-52-11] Yes ___ No N/A ___ RMK# ___

C:\Documents and Settings\KGallagh\Local Settings\Temporary Internet Files\Content.IE5\096F05YB\USED OIL.SHORT.11.2004.fin.megaset[1].wpd

REMARKS