



State of Ohio Environmental Protection Agency

Northwest District Office

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

Re: Aber's Truck Center
Hazardous Waste
Complaint # 2774
Ashland County
PRTC/NOV

December 12, 2008

Mr. Dan Aber
Aber's Truck Center
1729 Claremont Avenue
Ashland, Ohio 44805

Dear Mr. Aber:

Thank you for your responses to Ohio EPA's June 25, 2008, Notice of Violation letter (NOV). On July 16, 2008, Ohio EPA received the following information via postal mail:

- ❖ Waste evaluation information (analytical) for the fifteen unknown drums indicating these drums were hazardous waste.
- ❖ Waste evaluation information (analytical) for the roll-off box of used oil contaminated soil indicating this waste was non-hazardous.
- ❖ Waste evaluation information (analytical) for the soil excavated from underneath the 15 drums of unknown waste.

On July 23, 2008, via postal mail Ohio EPA received the following:

- ❖ Photographs indicating that all stored drums of used oil were properly labeled "Used Oil".
- ❖ A statement that facility personnel were advised on the proper management of used oil and used oil spills.
- ❖ A statement that all used oil filters are being recycled with Milliron Recycling.
- ❖ Information from your filter supplier pertaining to terne-plated filters.

On August 18, 2008, via fax I received the Material Safety Data Sheets (MSDS) for your current and past gun cleaner solvent and your commonly used paint.

On November 3, 2008, via fax Ohio EPA received the following:

- ❖ Waste evaluation information (analytical) for the soil excavated from underneath the 15 drums of unknown waste (same information submitted again).

On November 18, 2008, via fax Ohio EPA received the following:

- ❖ Waste evaluation (analytical) for the spent parts washing filter indicating this waste is non-hazardous.
- ❖ Waste evaluation (analytical) for the antifreeze generated from the maintenance of the larger vehicles.

My review of this documentation reveals that Aber's Truck Center (Aber's) has adequately demonstrated abatement of the violations listed below discovered during the June 4, 2008, compliance evaluation inspection & complaint investigation as outlined below:

Violation	Date Violation Observed	Date Violation Abated
1. OAC Rule 3745-52-11 Waste Evaluation.	June 4, 2008	A.) July 16, 2008; B.) November 18, 2008; C.) November 18, 2008***see general # 1 comment below
2. OAC Rule 3745-273-13 (D)(1), Waste management - standards for small quantity handlers of universal waste (lamps).	June 4, 2008	June 12, 2008
3. OAC Rule 3745-273-14 (E) Waste management - Labeling /marking standards for small quantity handlers of universal waste (lamps)	June 4, 2008	June 12, 2008
4. OAC Rule 3745-273-15 (C) Accumulation time limits - standards for small quantity handlers of universal waste (lamps).	June 4, 2008	June 12, 2008
5. OAC 3745-279-22 (C) (1) Used oil storage requirements -proper labels.	June 4, 2008	A.) June 4, 2008; B.) June 4, 2008; C.) June 12, 2008; D.) July 23, 2008

Aber's has failed to submit documentation to abate the following violation. This information must be submitted within 30 days of receipt of this letter to abate this violation:

(6) Clean up and proper management of used oil releases, OAC Rule 3745-279-22 (D) (3)

Aber's remains in violation of OAC Rule 3745-279-22 (D) (3).

A.) Aber's has submitted the information to partially abate part A.) with the submittal of the analytical results on July 16, 2008, indicating the used oil stained soil was non-hazardous & the statement that you will ensure your employees are trained pertaining to used oil management; however, I have not received the disposal receipt from the disposal of the non-hazardous soil.

- In order to abate this violation, please submit the disposal receipt indicating proper disposal of this material.

B.) Aber's remains in violation of OAC Rule 3745-279-22 (D) (3). Aber's has submitted the analytical from the sampling of this soil on July 16, 2008, and November 3, 2008; however, at this time Ohio EPA is reviewing a "contained in" appeal received from the facility to determine if this material is a hazardous waste (see General Comment #2 below).

Notice of Violation

Based upon review of (1) analytical information from Aber's June 12, 2008, sampling events submitted to Ohio EPA on July 16, 2008, for the 15 unknown drums of waste and (2) the MSDSs submitted to me on August 18, 2008; Aber's has incurred the following additional violations. You must do the following and send me the required information within 30 days of your receipt of this letter:

**1. Treatment, storage, or disposal of a hazardous waste.
ORC Section 3734.02 (E) & (F)**

No person shall treat, store, or dispose of hazardous waste without a hazardous waste facility installation and operation permit.

Aber's is storing 15, 55-gallon drums of hazardous waste in excess of 180 days in the gravel lot/grass area behind the facility as listed below:

Drum number	Hazardous waste codes
1	F002
2	F005
3	F002
4	D039, F005
6	F005
7	D018, D039, F002, F005
8	F005
9	F005
10	F005
11	F005
12	F002, F005
13	D018, F002, F005
15	D018, D039, F005
16	F002

Aber's utilizes currently or has utilized two separate gun cleaner/solvents. On August 18, 2008, you faxed to me the MSDSs for these two solvents, toluene and methylene chloride. Based on these MSDSs, these solvents when spent would be considered listed hazardous waste F005 (toluene) and F002 (methylene chloride).

Aber's is unsure at this time how the drums of hazardous waste came to be sitting behind their facility. Aber's stated that it is possible that maybe after they had their paint solvent/waste (D001, D035, F003, F005) pumped from a drum that excess waste was left in the drum. Additionally, you described it was possible an employee may have mixed the hazardous waste into a used oil container. However, this is not normal practice at Aber's.

During the sampling of the drums, it was noted that many drums were dark in color or had layers of dark liquid, but it was also noted that many drums contained clear liquid and /or yellowish liquid or layers of these colors.

From discussions with employees, Aber's believes the drums have been stored behind the facility for at least six months and possibly up to one year. Ohio EPA discovered these drums during a complaint investigation / compliance evaluation inspection on June 4, 2008.

Based upon information provided by you, Aber's would normally be a conditionally exempt small quantity generator (CESQG) of hazardous waste based upon described current hazardous waste generation rates. Based upon review of your manifests, Aber's normally generates approximately 5 gallons of waste per month. However, upon exceeding the quantity limit stored on-site of hazardous waste for CESQG of 1000 kilograms (approximately 5.5 drums), Aber's became a small quantity generator (SQG) of hazardous waste. A SQG has only 180 days to store hazardous waste on-site. Therefore, Aber's exceeded the 180-day storage requirement limit.

Aber's sampled the unknown drums on June 12, 2008, and submitted the analytical results to Ohio EPA on July 16, 2008. The drums are all closed and being stored under a tarp.

After the sampling event, Aber's dug up some of the stained soil from underneath the unknown drums as requested by Ohio EPA. This soil is being stored in a closed roll-off box. See comment # 2 below for additional information pertaining to the soil.

Aber's did not obtain a hazardous waste installation and operation permit or a permit by rule, to store hazardous waste for greater than 180 days, in violation of ORC Section 3734.02 (E) & (F).

- Aber's must immediately have these drums picked up by a licensed transporter to a permitted hazardous waste treatment, storage, and disposal facility.
- Aber's must first submit to me information pertaining to the disposal of this material including waste codes, who will dispose of the waste, and when the waste will be picked up (you can send this information via email).
- Then Aber's must submit all the hazardous waste manifests indicating this material has been properly disposed. Aber's should have these drums removed off-site as soon as possible, and must send me a schedule of when the drums will be shipped.

Since Aber's violated ORC §3734.02(E) and (F), Aber's is subject to all applicable general facility standards found in OAC chapters 3745-54 and 55. Additionally, at any time Ohio EPA may assert its right to have Aber's begin facility-wide cleanup pursuant to the Corrective Action process under Ohio law.

Please be advised that due to the nature of the violation, Ohio EPA may require closure pursuant to OAC rules 3745-55-11 through 3745-55-20 and OAC rules 3745-55-42 through 3745-55-47 at this site. In addition, please note that violation of ORC Section 3734.02 (E) & (F) is a serious violation of Ohio's hazardous waste laws and Aber's may be referred to Ohio EPA's Central Office for possible escalated enforcement action.

**2. Generator identification number.
OAC Rule 3745-52-12**

A generator must not treat, store, dispose of, transport, or offer for transportation hazardous waste without having received a U.S. EPA identification number from U.S. EPA or Ohio EPA.

Aber's is operating as a treatment, storage, and disposal facility (TSDF) of hazardous waste. They currently are storing hazardous waste, but they do not have a generator identification number.

Ohio EPA has issued an EPA ID number to track our investigation activity at Aber's. You cannot use this number for manifesting hazardous waste shipments. If you want to use an EPA ID number for manifesting and other hazardous waste, used oil or universal waste activities, you must complete and submit a Notification of Regulated Waste Activity form (*EPA Form 9029 (Rev. 11/2002)*) to Ohio EPA. I have enclosed a copy of the application which includes instructions and directions on where to mail the form. This form is also available on our Web page at <http://www.epa.state.oh.us/dhwm/notiform.html>. If you have any questions pertaining to this form you can call Kristina Durnell in the Division of Hazardous Waste Management, Central Office, RIS at (614) 644-1694.

In addition, Aber's may not have their hazardous waste transported off-site without first obtaining this number.

- **To abate this violation, Aber's must submit to me a copy of the application for your Notification of Regulated Waste Activity Form, EPA form number 9029, which you submitted to Ohio EPA to receive your U.S. EPA identification number.**

**3. Hazardous Waste label for containers.
OAC 3745-52-34 (D) (4)**

A generator may accumulate hazardous waste on-site for one hundred and eighty days or less without an Ohio hazardous waste permit provided that the container is labeled or clearly marked with the words "Hazardous Waste".

The 15 drums being stored in the gravel lot behind the facility were not labeled or clearly marked with the words "Hazardous Waste".

- **To abate this violation, Aber's must label these drums "Hazardous Waste" and send me photographs documenting this labeling.**

**4. Accumulation Time of Hazardous Waste.
OAC 3745-52-34 (D) (4)**

A generator may accumulate hazardous waste on-site for one hundred and eighty days or less without an Ohio hazardous waste permit provided that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

The 15 drums being stored in the gravel lot behind the facility did not have the accumulation date.

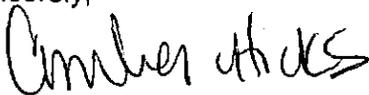
- **To abate this violation Aber's must write the accumulation start date on the drums indicating when they believe this waste was generated.**

General Comments:

1. Aber's conducted sampling to determine the hazardous characteristics of metals for their used antifreeze. Based on this analytical, the antifreeze is non-hazardous. However, Aber's did not test for benzene to determine the characteristic for this constituent. Please note that if Aber's services any engines which have a severe repair where fuel fumes could possibly mix in with antifreeze then Aber's should sample for benzene to ensure their waste is not characteristic for benzene. Aber's may wish to conduct additional analytical or contact Fluid Recovery, Inc. to see if they have additional information pertaining to this waste stream. Please note it is Aber's responsibility to properly evaluate all waste streams to ensure that they are not a hazardous waste.
2. After the drum sampling event on June 12, 2008, Aber's dug up some of the stained soil from underneath the unknown drums as requested by Ohio EPA. They sampled this soil on June 18, 2008. Approximately 3/4 of a roll-off box of soil was generated. This soil is being stored in a closed roll-off box. Based upon the analytical results from the sampling, the soil contains toluene at 0.021 mg/kg. There are no other hazardous waste characteristics associated with the soil. Eleven drums of F005 (toluene) listed hazardous waste were being stored on this soil. On November 24, 2008, you emailed me a "contained in" appeal stating that the soil should not also carry the F005 hazardous waste listing. Ohio EPA is currently reviewing this appeal. I will notify you of our findings once we have conducted our review.

If you should have any questions, please feel free to call me at (419) 373-3082.

Sincerely,



Amber M. Hicks
Division of Hazardous Waste Management

/llr

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
~~DHWM, NWDO File: Aber's Truck Center~~
ec: Amber Hicks, DHWM, NWDO

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.