

Re: **Moyer's Auto Wrecking
OHR000158550
Crawford County
DHWM, NWDO
Complaint 2946
Partial Return to
Compliance/Notice of Violation**

January 27, 2011

Mr. Terry Moyer
Moyer's Auto Wrecking
735 Bauer Avenue
Crestline, Ohio 44827

Dear Mr. Moyer:

The Ohio Environmental Protection Agency (Ohio EPA) received documentation from Chem-Tech Consultants, Inc. (CCI) on behalf of Moyer's Auto Wrecking (MAW) in response to Ohio EPA's Notices of Violation (NOVs) dated February 25, 2010, May 17, 2010, and August 3, 2010. The documentation was received on June 7, 2010, August 23, 2010, and September 22, 2010, and includes cover letters, used oil shipping receipts, analytical results from samples taken at MAW, photographs, a cleanup plan, and material data safety sheets (MSDSs).

The following is a summary of the violations observed during the January 2010, and February 2010, compliance evaluation inspections and the facility's compliance with respect to each violation. In an attempt to streamline this letter, details concerning previously abated violations or general concerns have been omitted. **Please submit the required information within 30 days of receipt of this letter.**

Violations:

1. Ohio Administrative Code (OAC) Rule 3745-52-11, Hazardous Waste

Determination: "Any person who generates a waste, as defined in rule 3745-51-02 of the Administrative Code, must determine if that waste is a hazardous waste..."

MAW failed to evaluate the following waste streams to determine if they were a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending them off site: a) spent lamps, b) used oil contaminated soil from the clean-up of used oil spills in the yard, c) used oil contaminated material from the clean-up of used oil spills in the buildings, and d) waste paint booth filters.

In order to abate this violation, MAW must do the following and submit the requested information to Ohio EPA **within 30 days of receipt of this letter.**

- a. Spent Lamps- On January 13, 2010, MAW told Ohio EPA that they throw their spent lamps into the trash. MAW failed to evaluate the spent lamps prior to disposing of them in the trash.

On August 23, 2010, Ohio EPA received documentation that MAW will be purchasing a prepaid universal waste box to collect and ship the lamps. However, MAW had not decided which company the lamps would be shipped through for recycling. On August 31, 2010, Ohio EPA reviewed paperwork while on site that MAW purchased a universal waste lamp box from Easypak, which is a part of Air Cycle Corporation in Broadview, Illinois.

Therefore, this violation is considered abated on August 31, 2010.

- b. Used oil contaminated soil from the clean-up of used oil spills in the yard-MAW failed to evaluate the used oil contaminated soil generated from spills in the yard prior to shipping it off site.

MAW explained to Ohio EPA on January 22, 2010, that MAW shovels used oil contaminated soil into the trunks and bodies of cars prior to the cars being crushed and sent off site to the shredders. However, MAW has not evaluated the used oil contaminated soil prior to sending it off site.

On September 22, 2010, Ohio EPA received analytical results from used oil contaminated soil samples taken at MAW. These results show the used oil contaminated soil generated from spills in the yard is non-hazardous.

Therefore, this violation is considered abated on September 22, 2010.

- c. Used oil contaminated material from the clean-up of used oil spills in the buildings- MAW failed to evaluate the used oil contaminated material generated from spills in the buildings prior to shipping it off site.

MAW explained to Ohio EPA on February 4, 2010, that the used oil dry from the cleanup of used oil spills inside the buildings is either thrown into the trash or is shipped off site in the trunks of cars being sent off site to the shredders. However, MAW has not evaluated the used oil contaminated material prior to sending it off site.

On August 23, 2010, Ohio EPA received documentation that the used oil contaminated material generated inside the buildings will be managed as used oil contaminated soil. On September 22, 2010, Ohio EPA received analytical results from samples taken at MAW. These results show the used oil contaminated material generated at MAW is non-hazardous.

Therefore, this violation is considered abated on September 22, 2010.

- d. **Waste paint booth filters**-MAW failed to evaluate the waste paint booth filters to determine if they were a hazardous waste in accordance with OAC Rule 3745-52-11, prior to sending them off site.

In order for MAW to determine whether the waste paint booth filters exhibit any hazardous waste characteristics, MAW must obtain a chemical analysis of a representative sample of the waste paint booth filters. MAW will need to contract the services of an environmental laboratory to analyze this material. MAW must at least determine the concentrations of VOCs and RCRA metals of the waste. If the waste paint booth filters can be considered a liquid as defined in OAC Rule 3745-51-21, then the flashpoint of the material must also be evaluated.

MAW has the option of analyzing the waste for total VOCs and total RCRA metals as a screening tool. However, based upon the results of these analyses MAW may be required to analyze the wastes for TCLP VOCs and TCLP RCRA metals. If MAW chooses to analyze for total concentrations, then MAW must gather and submit enough sample to analyze for both total concentrations and TCLP concentrations for all constituents. This insures that the lab will have enough sample to carry out all analyses as needed.

Within 30 days of receipt of this letter, MAW shall submit the analytical results indicating the proper evaluation of the waste for Ohio EPA's review. The results must document if the waste is hazardous or not and, if hazardous, whether it is restricted from land disposal. If the waste is hazardous, MAW must also submit information as to what treatment, storage, or disposal facility the waste will be sent to.

Once Ohio EPA acknowledges MAW's proper characterization of the waste, MAW must dispose of the waste at a proper disposal facility. MAW must then submit the appropriate manifest documents or shipping papers indicating proper disposal of the waste to Ohio EPA.

Please notify me at least five days prior to taking the sample(s) so that I may be present.

If the waste is hazardous, I will determine the status of your compliance with other hazardous waste laws and notify you of my findings in a separate letter.

Ohio EPA received documentation on August 23, 2010, that stated the paint booth filters would be sampled on August 30, 2010. However, the paint booth filters were not sampled at this time. To date, no other information concerning this violation has been submitted to Ohio EPA. This violation remains outstanding.

This waste stream needs to be sampled and analyzed once the paint filters are spent and ready to be disposed. If the paint filters will not be considered spent within the next 30 days, then MAW must state the next time the paint filters will be spent and ready to be sampled (or give an approximate date). In order to abate this violation, MAW must describe how the paint booth filters will be sampled and analyzed prior to disposal.

2. OAC Rule 3745-279-22 (C)(1), Used Oil Storage Requirements for Generators:
"Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words 'Used Oil.'"

MAW failed to mark one used oil tote located outside the main office building and four used oil totes located south of the loader storage building with the words "Used Oil."

During the January 2010, and February 2010, inspections, MAW told Ohio EPA that the totes located south of the loader storage building were used to store used oil. On August 23, 2010, Ohio EPA received documentation that stated "The totes located south of the loader building have not been used to store used oil. These totes will not be used for the storage of used oil." Since Ohio EPA has received documentation showing the tote outside the main office is labeled "Used Oil" and this is the only tote Ohio EPA verified contained used oil, this violation will be abated. However, MAW is reminded that every container that stores used oil must be properly labeled "Used Oil" to be in compliance with the rule. This includes tanks, totes, 5 gallon buckets, drip pans, etc. Ohio EPA will determine compliance with this rule through an inspection at a later date.

Therefore, this violation is considered abated on August 23, 2010.

3. **OAC Rule 3745-279-22 (D), Used Oil Requirements for Generators:** "Response to releases. Upon detection of a release of used oil to the environment... a generator must perform the following cleanup steps: (1) Stop the release; (2) Contain the released used oil; (3) Clean up and manage properly the released used oil and other materials; and (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service."

MAW failed to clean up and properly manage the used oil in the following areas: back storage room of main office building; used oil tote area in front of main office; loader storage building; all other areas outside where leaking engines are in contact with the ground.

On June 7, 2010, Ohio EPA received a plan titled "Cleanup and Sampling Plan, Main Area and Engine Areas". This document included a map of used oil contaminated areas to be excavated at MAW. In Ohio EPA's August 3, 2010, NOV, the map was considered sufficient since it outlined the main areas of concern. However, it was noted that other areas of used oil contamination exist on site that required cleanup. This issue was discussed with CCI during the May 26, 2010, site visit.

On August 30-31, 2010, Ohio EPA observed the removal of used oil contaminated soil located outside the main office. No other areas of used oil contaminated soil were removed during Ohio EPA's site visit.

On September 22, 2010, Ohio EPA received analytical results from the sampling of the used oil contaminated soil outside the main office. The results show the used oil contaminated soil is a non-hazardous waste.

In a phone conversation with John Moyer on November 8, 2010, John told me that MAW would be disposing of the contaminated soil from outside the main office at the Crawford County Landfill. I told John that he needed to submit the disposal records from this waste to me. To date, Ohio EPA has not received any further information concerning this outstanding violation.

In order to abate this violation, MAW must remove the used oil contaminated soil on site. This includes the remaining three areas outlined on the map received by Ohio EPA on June 7, 2010. MAW must submit appropriate documentation showing this waste has been properly disposed. This documentation could include bills of lading, non-hazardous waste manifests, or disposal receipts.

MAW must also submit appropriate documentation showing the waste from outside the main office building has been properly disposed.

MAW must submit information describing how the used oil will be collected and managed in the future to prevent future releases to the environment. This information should include how MAW will be collecting used oil draining from engines and other parts in the yard, how it will be stored on site, and where it will be recycled.

This information should be submitted to Ohio EPA within 30 days of receipt of this letter. Please notify me at least five days prior to the removal of the used oil contaminated soil so that I may be present.

Additional Violation:

- 4. Ohio Revised Code (ORC) Section 3734.02(E)&(F), Unpermitted Hazardous Waste Treatment, Storage & Disposal:** "No person shall store, treat, or dispose of hazardous waste identified or listed under this chapter and rules adopted under it, regardless of whether generated on or off the premises where the waste is stored, treated, or disposed of, or transport or cause to be transported any hazardous waste identified or listed under this chapter and rules adopted under it to any other premises, except at or to any of the following: (1) A hazardous waste facility operating under a permit issued in accordance with this chapter; (2) A facility in another state operating under a license or permit issued in accordance with the "Resource Conservation and Recovery Act of 1976" 90 Stat. 2806, 42 U.S.C.A. 6921, as amended ..."

During a February 4, 2010, inspection, Ohio EPA observed MAW's paint booth and gathered information concerning the wastes generated from this area. On June 7, 2010, Ohio EPA received additional information concerning the paint booth wastes, in response to the May 17, 2010, NOV. The June 7, 2010, response, states that MAW generates spent solvent from the cleaning of their paint guns utilized in the paint booth. The solvent is sprayed through the paint guns and into a container. Based on the material safety data sheet (MSDS) provided to Ohio EPA for the multi-purpose solvent used by MAW, the waste solvent generated by MAW is a listed hazardous waste (D001, F003, F005). MAW generates less than 0.5 gallons of this waste per month. MAW allows this spent solvent to evaporate into the atmosphere.

MAW conducted unpermitted treatment and disposal by evaporating and disposing of the hazardous waste paint gun clean up solvent into the atmosphere. MAW must immediately cease unpermitted treatment and disposal of its hazardous waste.

MAW must immediately begin properly storing, treating, and disposing of their hazardous waste. MAW must describe how their hazardous waste will be managed in the future. This includes the type of container the waste will be stored in, where the waste will be stored at the facility, how the container will be labeled, where MAW will send the hazardous waste to be disposed, and how often the hazardous waste will be picked up. This information must be sent to Ohio EPA **within 30 days of receipt of this letter**. For more information I have enclosed the Hazardous Waste Generator's Handbook, dated October 2009.

Since MAW has violated ORC Section 3734.02(E) & (F) by becoming an unpermitted treatment, storage, and disposal facility (TSDF), it is subject to Ohio Administrative Code (OAC) Rules 3745-55-10 through 3745-55-48 and 3745-55-97. Therefore, MAW may be required to submit a closure plan. A closure plan describes the steps necessary to investigate the extent of contamination and to clean up all contamination found due to the unpermitted activities at the site.

MAW is also subject to all applicable general facility standards, found in OAC Chapters 3745-54 and 55, until such time as MAW has demonstrated that it has ceased operations as a TSDF. Additionally, at any time, Ohio EPA may assert its right to have MAW begin facility-wide cleanup, pursuant to the Corrective Action process under Ohio law.

Additional Information Requested:

- A. Loader Storage Building**-This building contains engines on metal racks, three shelves high. Engines are also placed directly on the floor without secondary containment for used oil. This building is equipped with a concrete floor and a drain in the middle of the building. During the site visits, Ohio EPA observed used oil draining from the engines directly into the drain. MAW explained that the drain flows into a concrete holding pit. However, MAW did not know the size of the holding pit or if the holding pit had ever been pumped out.

On August 23, 2010, Ohio EPA received documentation that the material contained in the concrete holding pit was managed as used oil, removed from the pit, and burnt for energy recovery.

However, according to MAW this holding tank contains used oil that drips out of the engines and other parts stored in the loader storage building and oily waste water from where MAW washes vehicles. Oily waste water from washing vehicles does not meet the definition of used oil and is considered a waste.

On September 22, 2010, Ohio EPA received analytical results from the sampling of the material contained in the concrete pit. These results show the material is non-hazardous. Therefore, MAW can continue to have this material recycled as used oil, provided they can find a company to manage it as such.

No further information needs to be submitted to Ohio EPA pertaining to this general concern. This general concern is considered addressed on September 22, 2010.

- B. **Paint Booth**-During Ohio EPA's February 4, 2010, site visit, MAW showed Ohio EPA the body shop located on the north side of the property.

After review of the additional information submitted by MAW on June 7, 2010, and August 23, 2010, Ohio EPA views the waste solvent as a listed hazardous waste (D001, F003, F005). Evaporation of a listed waste is not an acceptable form of treatment and disposal for this waste stream. An additional violation has been cited above.

This general concern is considered addressed at this time. MAW must work toward abating the additional violation cited above. For more information the fact sheet titled Handling Paint Waste from Your Business, dated August 2000, has been enclosed.

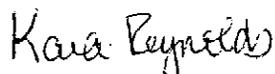
- C. **Lead-Acid Batteries**-*This general concern is considered addressed on March 30, 2010, per the May 17, 2010, letter.*
- D. **Contaminated Soil from Emergency Response Spill**-Ohio EPA's Emergency Response responded to a diesel spill at MAW on January 22, 2010. As part of the clean-up, MAW removed contaminated soil and staged it on-site while awaiting analytical results from the contaminated soil sampling. Analytical results showed this contaminated soil is a non-hazardous waste.

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To date, MAW has not submitted documentation to show this waste has been removed from the property. MAW must dispose of this waste as a non-hazardous waste at an appropriate landfill. This waste cannot be disposed of by using it as backfill or by placing it in cars to be crushed and shredded. This waste must be disposed of off-site at an appropriate destination facility. Within 30 days of receipt of this letter, MAW must submit documentation showing appropriate disposal of this waste. For more information I have enclosed the fact sheets titled Frequently Asked Questions about the Management of Soils, dated February 1998 and Environmental Compliance Guide for Motor Vehicle Salvage Yards, dated March 2003.

Should you have any questions, please feel free to call me at (419) 373-3065. Please send all correspondence **within 30 days of receipt of this letter** to Ohio EPA, Northwest District Office, Attn: Kara Reynolds, 347 North Dunbridge Road, Bowling Green, Ohio 43402.

Sincerely,



Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/l/r

Enclosures

pc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM, NWDO Crawford County File: Moyer's Auto Wrecking

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.