



**Environmental
Protection Agency**

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

**Re: Moyer's Auto Wrecking
OHR000158550
Crawford County
DHWM, NWDO
Complaint 2946
Third Notice of Violation**

August 3, 2010

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, and May 17, 2010. The documentation submitted includes a cover letter, photographs, a plan titled "Cleanup and Sampling Plan Main Area and Engine Areas", and several material safety data 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. **All violations are still outstanding.**

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, and c) used oil contaminated material from the clean-up of used oil spills in the buildings.

In order to abate this violation, MAW must do the following and submit the requested information to Ohio EPA **within 14 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 January 22, 2010, MAW showed Ohio EPA the container they would be using to store their universal waste lamps. The container was closed and properly labeled with an accumulation start date of January 15, 2010. However, it was unclear where MAW would be recycling the universal waste lamps.

On March 30, 2010, Ohio EPA received documentation that stated MAW will be sending their universal waste lamps to Technology Recycling Group (TRG) located in Cincinnati, Ohio to be recycled. Ohio EPA spoke to Mr. Ernie Brady of TRG on May 11, 2010. TRG does not have any record of picking up spent lamps from MAW. According to Mr. Brady, TRG has not given MAW a price quote nor has a contract been discussed between the two facilities. TRG also told Ohio EPA that MAW would be responsible for transporting the lamps to TRG as the distance between the two companies is so great that TRG will not pick spent lamps up from MAW.

On June 7, 2010, Ohio EPA received documentation that states "MAW has called Technology Recycling Group...to arrange for lamp disposal...the box will be transported to...Technology Group in Cincinnati..."

MAW still has not submitted the requested information. In order to abate this violation, MAW must submit information that describes how MAW will be transporting the lamps to TRG and how MAW will comply with the Universal Waste transporter requirements (OAC 3745-273-50 through 3745-273-56). MAW must also submit a contract showing that MAW has entered into an agreement with TRG to have their universal waste lamps recycled. This information must be submitted to Ohio EPA within 14 days of receipt of this letter.

- 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.

Mr. Terry Moyer
August 3, 2010
Page 3

In order for MAW to determine whether the used oil contaminated soil exhibits any hazardous waste characteristics, MAW must obtain a chemical analysis of a representative sample of the contaminated soil. MAW will need to contract the services of an environmental laboratory to analyze this material. MAW must at least determine the concentrations of volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and Resource Conservation and Recovery Act (RCRA) metals of the waste. MAW has the option of analyzing the soil for total VOCs, total SVOCs, and total RCRA metals. However, based upon the results of these analyses MAW may be required to analyze the soils for toxicity characteristic leaching procedure (TCLP) VOCs, TCLP SVOCs, and TCLP RCRA metals.

MAW shall submit the analytical results indicating the proper evaluation of the contaminated soil 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. MAW must cease disposing of this soil in scrap automobiles whether it is hazardous waste or not.

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.

On June 7, 2010, Ohio EPA received information that MAW will clean up and sample these areas during the site cleanup described in violation 3. No information has been submitted in order to abate this violation; therefore, the violation is still outstanding. However, Ohio EPA agrees with MAW's approach in abating this violation.

- 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.

Mr. Terry Moyer
August 3, 2010
Page 4

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.

OAC Rule 3745-279-10(C)(2) states "Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil..." MAW has the option of managing the used oil contaminated material as used oil if it can be burned for energy recovery. Ohio EPA recommends that MAW contact used oil recyclers to set up an agreement/contract for this material to be recycled. However, the final determination that this material can be burned for energy recovery must be made by the used oil recycling facilities, not Ohio EPA or MAW.

If the used oil recycling facilities determine that this material cannot be burned for energy recovery, then MAW must dispose of this material as a waste. Prior to disposing of the waste, MAW must make a proper waste evaluation on the used oil contaminated material. In order for MAW to determine whether the used oil contaminated material exhibits any hazardous waste characteristics, MAW must obtain a chemical analysis of a representative sample of the contaminated material. MAW will need to contract the services of an environmental laboratory to analyze this material. MAW must at least determine the concentrations of the VOCs, SVOCs, and RCRA metals of the waste. MAW has the option of analyzing the soil for total VOCs, total SVOCs, and total RCRA metals. However, based upon the results of these analyses MAW may be required to analyze the soils for toxicity characteristic leaching procedure (TCLP) VOCs, TCLP SVOCs, and TCLP RCRA metals.

MAW shall submit the analytical results indicating the proper evaluation of the contaminated material 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.

Mr. Terry Moyer
August 3, 2010
Page 5

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.

On June 7, 2010, Ohio EPA received information that MAW will clean up and samples these areas during the site cleanup described in violation 3. No information has been submitted in order to abate this violation; therefore, the violation is still outstanding. However, Ohio EPA agrees with MAW's approach in abating this violation.

Additional Violation: After review of the inspection notes from the February 4, 2010, site visit, an additional violation of OAC 3745-52-11 is being cited as described below.

- 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.

Mr. Terry Moyer
August 3, 2010
Page 6

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.

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."

On June 7, 2010, Ohio EPA received documentation that included two photographs of used oil totes located on site. One photograph shows the tote located next to the main storage building with the label "Used Oil". The second photograph shows the four used oil totes located south of the loader building. However, this photograph does not show these totes are labeled "Used Oil". Ohio EPA did not observe these totes during the May 26, 2010, site visit. Therefore, Ohio EPA can only assume that these totes are not labeled "Used Oil" since that is the documentation that has been submitted.

In order to abate this violation, MAW must properly label the four used oil totes located south of the loader storage building with the words "Used Oil." Within 14 days of receipt of this letter, MAW must submit to Ohio EPA photographs of the used oil totes located south of the loader storage building showing the proper labels.

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.

MAW must immediately begin properly cleaning up used oil releases in a timely manner.

MAW must clean up all visible contamination located in the buildings and in the yard. The contaminated material shall be evaluated and placed in containers in good condition prior to disposal. **Ohio EPA must be present to verify that all visible used oil contamination has been removed from an area prior to this area being back filled or a secondary containment system being put into place.** Due to the size of the property and amount of contamination present, a description of how this rule will be met prior to excavation should be submitted to Ohio EPA for review.

The description of MAW's clean-up plans should include the following information:

- A map showing all areas of the property where oil contamination will be cleaned up (This map must include all areas mentioned above.)
- A description of how soils will be excavated and staged
- A description of how samples will be collected
- An explanation of how MAW will determine how many samples are necessary to properly characterize the soil (MAW should propose a certain number of samples per the volume of soil that they expect to generate.)
- A description of what the samples will be analyzed for and the methods utilized (To meet the requirements of OAC rule 3745-52-11 for waste evaluation, MAW must analyze a representative sample of the soil for VOCs, SVOCs, RCRA metals, and polychlorinated biphenyls (PCBs). MAW has the option of analyzing the soil for total VOCs, total SVOCs, total RCRA metals, and total PCBs. However, based upon the results of these analyses MAW may be required to analyze the soils for TCLP VOCs, TCLP SVOCs, and TCLP RCRA metals.)
- The name of the environmental laboratory that MAW will use to analyze the samples.
- The names of the disposal facilities that MAW plans to use whether the soil is hazardous or non-hazardous.

Mr. Terry Moyer
August 3, 2010
Page 8

Once Ohio EPA has reviewed and accepted MAW's plan for abating this violation, MAW will have 30 days to implement the plan and submit all requested information and documentation to Ohio EPA. Based on the results of the analytical test(s), MAW shall label the container(s) appropriately and dispose of the wastes at a proper disposal facility.

MAW shall submit the analytical results indicating the proper evaluation of the contaminated soil and appropriate manifest documents or shipping papers indicating proper disposal of the contaminated soil to Ohio EPA **within 30 days of implementation of the plan**. 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 explain what treatment, storage, or disposal facility the waste will be sent to.

MAW must also 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, how it will be stored on site, and where it will be recycled.

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.

On June 7, 2010, Ohio EPA received a document titled "Cleanup and Sampling Plan Main Area and Engine Areas." This document includes information on how the soils will be excavated and staged, a map of the areas that will be excavated, a description of how the samples will be collected, a proposed number of samples, and a description of analyses to be run on the samples. This document did not include the name of the laboratory the samples will be analyzed at or a proposed disposal facility for the non-hazardous waste or hazardous waste.

The map included by MAW is sufficient as it identifies the main areas of concern. However, it should be noted that other areas of used oil contamination exist on site that require cleanup. This issue was discussed with CCI during the May 26, 2010, site visit.

MAW has proposed to collect 10 bags of soil from the main area. The three bags containing the most visually contaminated soil will be chosen as samples and will be packaged accordingly and sent to the laboratory to be analyzed.

Ohio EPA does not totally agree with this approach. Instead of placing the soil in bags, MAW should remove enough soil for a sample and place the soil into jars according to SW-846 methods. All ten samples should be sent to the laboratory. However, prior to shipment the three most visually contaminated samples should be identified. These 3 samples should be analyzed at the laboratory (All 3 samples should be analyzed for VOCs, SVOCs, and RCRA metals; one sample should be analyzed for PCBs). The other 7 samples should be sent to the lab and placed on "hold." This way if the sample results are inconclusive from the first 3 samples, MAW already has other samples at the laboratory that can be analyzed, if needed.

It is unclear if MAW plans on analyzing the samples for total concentrations or TCLP concentrations. If MAW chooses to analyze for total concentrations as a screening tool, then MAW must gather and submit enough sample to analyze for both total concentrations and TCLP concentrations for all analyses for each sample. This insures that the lab will have enough sample to carry out all analyses as needed.

At this time, MAW may proceed with the cleanup. Please notify me at least five days prior to removal of the used oil contaminated soils and contaminated soil sampling so that I may be present.

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 June 7, 2010, Ohio EPA received the following answers to the questions listed below. What are the dimensions of the holding pit? "The holding pit is 8 feet long, 5 feet wide and 4 feet high."; What is the volume held by the pit? "500 gallons"; Where is the pit located? "Located 7 feet south of the loader building 44 feet east of the west end"; When was the pit installed? "The date of the drawing is December 2005."; Where does the holding pit flow to? "The holding pit does not appear to have a discharge."; Has the pit ever been pumped out? "Yes."; What was done with the contents of the holding pit once it was pumped out? "Recycled as used oil."

MAW must submit a copy of all documentation related to the removal of this used oil including but not limited to purchase orders, invoices, receipts, non-hazardous waste manifests, analytical results from the used oil, etc. If no documentation exists for this removal, then MAW must state this. MAW must also answer the following questions concerning the used oil removal: What dates was the pit pumped out? What company(ies) removed the used oil on each date? How much used oil was removed from the pit during each removal event? Where was the used oil recycled? How was the used oil recycled (energy recovery, reconditioning, re-refining, etc.)? MAW must submit this information within 14 days of receipt of this letter.

- 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. MAW told Ohio EPA that the paint booth was used by Jim (last name unknown) who was not an employee of MAW. MAW did not know how the waste generated from this paint booth was disposed except that the paint filters were thrown into the trash.

On June 7, 2010, Ohio EPA received the following answers to the questions listed below. What wastes are generated from this paint booth? "A small amount of used solvent"; How much of these wastes are generated in a month? "Less than 0.5 gallons"; Where are these wastes disposed? "When the spray gun is cleaned, it is sprayed into a bucket. The solvent evaporates."

After review of the information submitted by MAW, Ohio EPA views the waste solvent as a listed hazardous waste (D001, F003, F005). MAW must either concur or rebut Ohio EPA's interpretation of the information submitted. If MAW rebuts Ohio EPA's interpretation, then MAW must submit documentation that proves the waste is not a listed hazardous waste.

Ohio EPA also requests more information on this paint booth. MAW must answer the following questions within 14 days of receipt of this letter.

Is there any paint waste generated from this paint booth such as old paint or partially used containers of paint? If so, how much of this waste is generated per month? How is the old/unused paint disposed? If the old/unused paint is accepted by a permitted treatment, storage, or disposal facility then MAW should submit any paperwork associated with the waste disposal. If the old/unused paint is disposed of through the local landfill, dumped on site, or any other disposal method utilized, then MAW should state this.

MAW states that the paint guns are cleaned by spraying solvent through the paint gun and into a container. Is there one specific container designated for this purpose or are multiple containers used to collect the paint gun cleaning waste? Please submit photographs of the container(s) that are collecting the paint gun waste. After the solvent from cleaning the paint guns evaporates, typically in similar painting operations, a paint sludge/crust is left in the container. How does MAW dispose of this paint sludge/crust? If the paint sludge/crust is accepted by a permitted treatment, storage, or disposal facility then MAW should submit any paperwork associated with this waste disposal. If the paint sludge/crust is disposed of through the local landfill, dumped on site, or any other disposal method utilized, then MAW should state this as well.

- C. Lead-Acid Batteries**-MAW generates lead-acid batteries from salvaged cars. These batteries are picked up by companies that regenerate the batteries through electrolyte replacement or send them on to smelters located in Indiana. These batteries are not stored in a central location while at MAW. They are scattered throughout the site on the ground, in the back of open truck beds, or on pallets. It appears that MAW is managing the batteries as reclaimed spent lead-acid batteries instead of universal waste batteries. In which case, MAW is subject to complying with the applicable provisions in Chapter 3745-270 of the OAC.

On March 30, 2010, Ohio EPA received documentation that included a receipt from Ohio Battery showing that 5 batteries were picked up from MAW on January 25, 2010. In a phone conversation with John Moyer on March 17, 2010, John stated to me that, under normal conditions, MAW generates 30-40 batteries per month. John said that the receipt for five (5) batteries in January was a slow month and was not indicative of normal battery generation at MAW. Ohio EPA recommends that MAW recycle batteries on a monthly basis so that large amounts of batteries are not accumulated on site.

No further information needs to be submitted to Ohio EPA pertaining to this general concern. This general concern is considered addressed on March 30, 2010.

- 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.

Mr. Terry Moyer
August 3, 2010
Page 12

On June 7, 2010, Ohio EPA received documentation that this soil will be disposed with the contaminated soil from around the main office building and that manifests will be sent to Ohio EPA to document this disposal. Ohio EPA agrees with this approach at this time.

Please send all correspondence **within 14 days of receipt of this letter**, unless otherwise specified, to Ohio EPA, Northwest District Office, Attn: Kara Reynolds, 347 North Dunbridge Road, Bowling Green, Ohio 43402.

Sincerely,

Kara Reynolds

Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/llr

Enclosures

pc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM, NWDO Crawford County File: Moyer's Auto Wrecking 7

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.