



**Environmental
Protection Agency**

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

January 27, 2011

**WASHINGTON COUNTY
MERCHANTS 5 STAR
DHWM/SEDO
OHD066839069**

Mr. Terry Lipps
Operations Manager
Merchants 5 Star
PO Box 541
Marietta, Ohio 45750

Dear Mr. Lipps:

On January 19, 2011, Rich Stewart and I of Ohio EPA conducted a complaint investigation of Merchants 5 Star in Marietta, Ohio in response to a complaint received by this office. The complainant alleged that your company was disposing of dusty red and black residues onto the ground from truck trailers, and disposing of used oil on the ground behind the facility. During the investigation, you accompanied us.

Based on my investigation, I found the following violations of Ohio's hazardous waste laws. In order to correct these violations, you must do the following and send me the required information **within 30 days** of the date of this letter:

- (1) **OAC Rule 3745-279-22,(C)&(D), Used Oil Storage Requirements for Generators:**
(C) Containers and tanks of used oil must be labeled with the words "Used Oil"; (D) Upon detection of a release of used oil to the environment, a used oil generator must stop the release, contain the released used oil, clean up and properly manage the released used oil and materials used to clean up the used oil, and if necessary, repair or replace any leaking used oil storage containers prior to returning them to service for used oil storage.

(C) Numerous containers of used oil stored inside and outside of the truck maintenance garage were not labeled. In order to abate this section of the violation, you must label all containers of used oil with the words "used oil" and submit photographs to me at this office.

(D) Numerous containers of used oil both inside and outside the truck maintenance garage were overflowing or otherwise leaking onto the ground, especially in a) a concrete pad adjacent to the door of the garage and on soils directly behind the garage, and b) inside the truck maintenance building where used oils are transferred from containers into the used oil tanks which feed your used oil furnace. As a result of the latter, spilled oils are exiting the building from a crack between the floor and siding, and contaminating soils just outside the building. Contamination runs the length of the building.

In order to abate (D), you must immediately stop all used oil from overflowing or leaking onto the ground, excavate all visibly oil-contaminated soils and gravel, clean up all oil spillage on concrete pads or floors, dispose of oily soils and cleanup materials in your dumpster, and submit photographs and disposal receipts to me. Once all oily soils have been excavated by your company and re-inspected by me, you may backfill the area with clean soils or gravel.

In addition, you must take immediate steps to prevent all future releases of used oil onto the floor or ground. For example, we recommend that you seal the crack between the floor and walls of your maintenance garage, and centralize your used oil accumulation area and install a dike around it so that any future spills are contained. In addition, you should re-train your employees in your existing used oil management plan that you submitted to this office on December 6, 2006 as a result of our last inspection of your company. Your used oil management plan consists of proper housekeeping so that used oil spills are prevented and immediately cleaned up, should they occur. You must provide adequate and regular oversight to ensure that employees are properly implementing the plan. Please submit a detailed description of the steps you will take to upgrade your current used oil management plan, train employees in the plan, and prevent and contain all future used oil spills.

GENERAL COMMENTS

- (a) On September 7, 2006, Ohio EPA conducted an inspection of your facility and found used oil management violations which resulted in an extensive soil removal and cleanup by your company, as well as the submittal of the aforementioned used oil management plan. The current violations found on January 19, 2011 mirror the 2006 violations. Thus, your company may be considered a chronic violator of used oil regulations and possibly subject to escalated enforcement action should you not abate the above violations in a timely manner and maintain future compliance with used oil management regulations.

- (b) Your company generates dusty residues from the shipping of Carbon Dust for DeGussa-Hulls Corporation to a company in Akron, Ohio, and from shipping Ferrite Powder from Delta Ferrites in Delta, Ohio to Flex Mag in Marietta. These red and black dusty residues are spray washed from truck trailers onto the ground behind your facility. Please note that while according to MSDS information that you submitted, these residues are not a hazardous waste, they are a solid waste and it is illegal to dispose of them on the ground. Residues must be contained and sent offsite to a permitted solid waste facility. Disposal on the ground may also affect the Ohio River water quality. Please immediately take steps to contain all residues from truck trailers, and dispose of them as a solid waste, and submit documentation of this to this office. Please note that any possible violations of Ohio's water quality regulations are being referred to Mr. Steve Wells, Division of Surface Water, Ohio EPA, who may also be contacting you. Note that any and all residues you generate, not just the aforementioned red and black residues, must be evaluated to determine if they are a hazardous waste in accordance with Ohio Administrative Code Rule 3745-52-11 and managed in accordance with Ohio laws. You may use applicable MSDS information to do this evaluation.

Mr. Terry Lipps
Merchants 5 Star
January 27, 2011
Page 3

Should you have any questions, please feel free to call me at (740) 380-5293. You can find copies of the rules and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>.

Sincerely,



Donna Goodman
Environmental Specialist
Division of Hazardous Waste Management

DG/mlm

Enclosure

cc: Steve Wells, DSW, SEDO

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.

Send to Central Office <input type="checkbox"/>	Ohio Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM	For Ohio EPA use only
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Completed verification forms required to be submitted to CO should be e-mailed to paula.canter@epa.state.oh.us.

Site EPA ID No. Site Name Site Location Information Site Land Type (check only one) NAICS code(s) www.census.gov/epcd/www/naics.html	EPA ID Number: OHD066839069 Name: Merchants 5 Star Website: _____ (Optional) Street Address: PO Box 541 City, Town, or Village: Marietta State: OH County Name: Washington Zip Code: 45750 <table style="width:100%; border: none;"> <tr> <td style="border: none;">Private</td> <td style="border: none;">County</td> <td style="border: none;">District</td> <td style="border: none;">Federal</td> <td style="border: none;">Indian</td> <td style="border: none;">Municipal</td> <td style="border: none;">State</td> <td style="border: none;">Other</td> </tr> <tr> <td style="border: none;"><input checked="" type="checkbox"/></td> <td style="border: none;"><input type="checkbox"/></td> </tr> </table>	Private	County	District	Federal	Indian	Municipal	State	Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>						
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Facility Representative Additional names can be recorded in number 12 Only provide address information if it is different than the site address	First Name: Terry MI: _____ Last Name: Lipps Title: Operations Manager Phone Number: _____ Phone Number Extension: _____ E-Mail Address: _____ Fax Number: _____ Fax Number Extension: _____ Street or P.O. Box: _____ City, Town or Village: _____ State: _____ Zip Code: _____																

Legal Owner And Operator of the Site. 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): _____ <table style="width:100%; border: none;"> <tr> <td style="border: none;">Owner Type:</td> <td style="border: none;">Private</td> <td style="border: none;">County</td> <td style="border: none;">District</td> <td style="border: none;">Federal</td> <td style="border: none;">Indian</td> <td style="border: none;">Municipal</td> <td style="border: none;">State</td> <td style="border: none;">Other</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/></td> </tr> </table> Street or P.O. Box: _____ City, Town or Village: _____ Owner Phone #: _____ State: _____ Country: _____ Zip Code: _____ Name of Site's Operator: _____ Date Became Operator (mm/dd/yyyy): _____ <table style="width:100%; border: none;"> <tr> <td style="border: none;">Operator Type:</td> <td style="border: none;">Private</td> <td style="border: none;">County</td> <td style="border: none;">District</td> <td style="border: none;">Federal</td> <td style="border: none;">Indian</td> <td style="border: none;">Municipal</td> <td style="border: none;">State</td> <td style="border: none;">Other</td> </tr> <tr> <td style="border: none;"><input type="checkbox"/></td> </tr> </table> Street or P.O. Box: _____ City, Town or Village: _____ Operator Phone #: _____ State: _____ Country: _____ Zip Code: _____	Owner Type:	Private	County	District	Federal	Indian	Municipal	State	Other	<input type="checkbox"/>	Operator Type:	Private	County	District	Federal	Indian	Municipal	State	Other	<input type="checkbox"/>																
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VIOLATIONS CITED? Yes No

TYPE OF HANDLER - MARK "X" AS APPROPRIATE

<input type="checkbox"/> Not a HW Generator	<input type="checkbox"/> UNKNOWN: Cited for violation of 3745-52-11 <input type="checkbox"/> Short-Term/Temporary Generator (generates from _____ a short-term or one-time event and not from on-going processes). <i>Check the box for the applicable generator status and provide a comment.</i>	<input type="checkbox"/> Large Quantity Generator (LQG) <input type="checkbox"/> Small Quantity Generator (SQG) <input checked="" 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
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TYPE OF REGULATED WASTE ACTIVITY (MARK "X" IN ALL OF THE APPROPRIATE BOXES)

- | | |
|---|--|
| <input type="checkbox"/> Hazardous Waste Transporter | <input type="checkbox"/> Exempt Boiler and/or Industrial Furnace |
| <input type="checkbox"/> Hazardous Waste Transfer Facility | <input type="checkbox"/> Small Quantity On-Site Burner Exemption |
| <input type="checkbox"/> Treater, Storer or Disposer of Hazardous Waste | <input type="checkbox"/> Smelting, Melting, Refining Furnace Exemption |
| <input type="checkbox"/> Recycler of Hazardous Waste | <input type="checkbox"/> Underground Injection Control Facility |
| <input type="checkbox"/> 72-Hour Recycler | <input type="checkbox"/> Receives Hazardous Waste from Off-site |

UNIVERSAL WASTE ACTIVITIES (INDICATE TYPES OF UNIVERSAL WASTE MANAGED)

(CHECK ALL BOXES THAT APPLY)

- | | |
|---|---|
| <input type="checkbox"/> Small Quantity Handler of Universal Waste | <input type="checkbox"/> Destination Facility for Universal Waste |
| <input type="checkbox"/> Large Quantity Handler of Universal Waste
(accumulates 5,000 kg. or more) | |

CHECK ALL BOXES BELOW THAT APPLY FOR THE TYPES OF UNIVERSAL WASTE THE FACILITY MANAGES

- Batteries
- Pesticides
- Mercury containing equipment
- Lamps

USED OIL ACTIVITIES (INDICATE TYPE(S) OF ACTIVITY(S))

- Used Oil Generator
- Used Oil Transporter
- Used Oil Transfer Facility
- Used Oil Processor
- Used Oil Re-refiner
- Off-Specification Used Oil Burner
- Used Oil Fuel Marketer who directs shipment of Off-Spec Used Oil
- Used Oil Fuel Marketer who first claims the Used Oil meets the specifications

Eligible Academic Entities with Laboratories: Facility has previously notified that they are opting into managing laboratory hazardous waste pursuant to OAC rules 3745-52-200 through 3745-52-216. Check the box(es) below to indicate the laboratory type.

- College or University
- Teaching hospital that is owned by or has a formal written affiliation agreement with a college or university
- Non-profit Institute that is owned by or has a formal written affiliation agreement with a college or university

Waste Codes for Federally Regulated Hazardous Wastes. Please list the codes for the federally regulated hazardous waste handled at the site. List them in the order they are presented in the regulations (e.g., D001, D003, F007, U112). Use an additional page or list them in the comments if more space is needed. If the waste codes are the same as listed in the most recent RCRAInfo source record, you do not need to list them. Instead just indicate the date of the most recent source record.

D001

COMMENTS: USE THIS AREA TO DESCRIBE WHETHER THE INSPECTION WAS ANNOUNCED, WHETHER THE WASTE IS STORED IN TANKS OR CONTAINERS, ETC.

- | | | | |
|------------|---|--|--------------------------------------|
| Announced | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No | Additional Facility Representatives: |
| Tanks | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |
| Containers | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No | |

Name of Inspector(s)
Donna Goodman

Name of Inspector(s)
Rich Stewart

Date of Inspection/Time
(mm/dd/yyyy) (hh:mm)
01/19/2011 1:00 PM

Comments:

Used oil only is stored in aforementioned tanks and containers. CESQG quantities of Stoddard solvent (D001) parts washer fluids are mixed with used oil. Company has used oil-fired furnace.