



State of Ohio Environmental Protection Agency

Northwest District Office

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

RE: H&K Chevy Pontiac Buick  
OHD 017 929 969  
Putnam County  
DHWM, NWDO  
Second Notice of Violation

July 23, 2009

Mr. Bob Quigley  
H&K Chevy Pontiac Buick  
200 South Main Street  
Continental, Ohio 45831

Dear Mr. Quigley:

Thank you for accompanying Amber Hicks and me during the Ohio Environmental Protection Agency's (Ohio EPA's) February 23, 2009, compliance evaluation inspection of H&K Chevy Pontiac Buick's (H&K's) facility located at 200 South Main Street, Continental, Ohio. I inspected H&K to determine its 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).

Ohio EPA sent a Notice of Violation (NOV) to H&K on March 16, 2009. Ohio EPA received letters on April 17, 2009, and May 15, 2009, from Mark Mercer of Shumaker, Loop & Kendrick, LLP on behalf of H&K that requested extensions to the time period in which these violations should be abated. These extensions of time were granted but have expired. To date, H&K has not submitted any information pertaining to the outstanding violations specified in the NOV.

Ohio EPA 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 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..."

H&K 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) waste paint booth filters, c) water from the paint pit, d) parts washer solution, and e) antifreeze.

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

- a. **Spent Lamps** -- H&K failed to have waste evaluation documentation or an established recycling plan in place for spent lamps generated at the facility.

H&K must immediately cease disposing of the spent lamps as non-hazardous waste until a proper waste evaluation has been completed. Spent lamps can contain mercury and other heavy metals which could make them a hazardous waste. Hazardous waste lamps are considered "spent materials" and remain hazardous waste even when recycled. Hazardous waste lamp generators have the option of handling their lamps as hazardous waste or as universal waste. Managing hazardous waste lamps under the universal waste rules eases certain regulations imposed on generators of spent lamps.

**Within 30 days of receipt of this letter**, H&K must choose one of the following options and submit to Ohio EPA the requested information as documentation to demonstrate how you plan to properly manage your spent lamps: **1)** If H&K decides to manage the lamps as a waste, then H&K will need to sample each type and brand of lamp at the facility using a Toxicity Characteristic Leaching Procedure (TCLP) test for Resource Conservation and Recovery Act (RCRA) metals. H&K must then submit all analytical results to Ohio EPA along with a summary describing whether the spent lamps are a hazardous waste or non-hazardous waste and how the spent lamps will be managed. **2)** The other alternative is that H&K can begin to manage all spent lamps as universal waste. If H&K chooses this option, then H&K must submit a summary that outlines how the spent lamps will be managed as universal waste and where they will be shipped. H&K must also submit photographic documentation that the containers used to store the spent lamps are all closed and have the proper labels and accumulation start dates located on them. Ohio EPA recommends that spent lamps be managed as a universal waste and recycled.

It should also be noted that even though green tipped lamps or "environmentally friendly" lamps are sometimes guaranteed by the manufacturers to pass a TCLP test, more information is needed to dispose of these lamps as solid waste. Most manufacturers base this guarantee on the amount of mercury contained in the lamp. Without analytical results showing a representative sample of these lamps passing the TCLP test for ALL RCRA metals (mercury, cadmium, lead, etc.), these lamps cannot be disposed of as solid waste. Spent lamps can contain other RCRA metals such as cadmium and lead which could be above the hazardous waste limits.

- b. Waste Paint Booth Filters – H&K failed to have proper waste evaluation documentation for waste paint booth filters generated at the facility.

H&K changes the paper filters approximately twice a year. At the time of the inspection, H&K was disposing of the waste paint booth filters in the trash.

In order for H&K to determine whether the waste paint booth filters exhibit any hazardous waste characteristics, H&K must obtain a chemical analysis of a representative sample of the waste paint booth filters. H&K will need to contract the services of an environmental laboratory to analyze this material. H&K must at least determine the concentrations of the RCRA metals and volatile organic compounds (VOCs) in 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.

Due to the cost of sampling and analyzing this material, H&K has the option of analyzing the waste paint booth filters for total RCRA metals and total VOCs. However, based on the results of this test, a TCLP test for RCRA metals and TCLP test for VOCs may also be required.

H&K shall submit the analytical results indicating the proper evaluation of the waste paint booth filters. 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, H&K must explain what treatment, storage, or disposal facility the waste will be sent to.

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 observed sampling of the waste paint booth filters on June 5, 2009. However, no sampling results have been sent to Ohio EPA at this time.**

- c. Water from the Paint Pit – H&K failed to have proper waste evaluation documentation for the water generated from the paint pit.

During the inspection, H&K showed Ohio EPA the paint booth. According to H&K, the paint booth has a pit where groundwater accumulates during the rainy season. H&K stated that this pit is pumped out and the water is sent down a drain or drained behind the building. H&K must immediately cease disposing of the pit water until a proper waste evaluation has been completed.

In order for H&K to determine whether the paint pit water exhibits any hazardous waste characteristics, H&K must obtain a chemical analysis of a representative sample of the waste paint pit water. If any sludge is generated at the bottom of this pit, then a separate sample of the waste paint pit sludge must also be obtained. H&K will need to contract the services of an environmental laboratory to analyze these materials. H&K must at least determine the concentrations of the RCRA metals and VOCs for both the water and sludge, if present.

Due to the cost of sampling and analyzing this material, H&K has the option of analyzing the water and sludge for total RCRA metals and total VOCs. However, based on the results of this test, a TCLP test for RCRA metals and TCLP test for VOCs may also be required.

H&K shall submit the analytical results indicating the proper evaluation of the water and sludge, if present. 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, H&K must explain what treatment, storage, or disposal facility the waste will be sent to.

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.

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

In addition, H&K must submit information to Ohio EPA concerning where the drained water is being discharged. If this waste is being sent to the local waste water treatment plant (WWTP), then H&K will need to include a letter from the WWTP stating that they can accept and properly treat the waste water. If the water is being placed down a storm drain, then H&K must submit this information as well.

- d. Waste Parts Washer Fluid – H&K failed to have proper waste evaluation documentation for the waste parts washer solution.

Waste parts washer fluid can be hazardous waste based on the characteristic of ignitability (D001) or the concentration of RCRA metals. According to the Material Safety Data Sheet (MSDS) for the parts washer fluid, this specific fluid is hazardous for ignitability (D001). However, H&K has not evaluated this fluid for RCRA metals.

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In order for H&K to determine whether the waste parts washer fluid exhibits any hazardous waste characteristics, H&K must obtain a chemical analysis of a representative sample of the waste parts washer fluid. H&K will need to contract the services of an environmental laboratory to analyze this material. H&K must at least determine the concentrations of the RCRA metals in the waste and the flashpoint of the waste.

Due to the cost of sampling and analyzing this material, H&K has the option of analyzing the waste parts washer fluid for total RCRA metals. However, based on the results of this test, a TCLP test for RCRA metals may also be required.

H&K shall submit the analytical results indicating the proper evaluation of the waste parts washer fluid. 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, H&K must explain what treatment, storage, or disposal facility the waste will be sent to.

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.

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

- e. Antifreeze – H&K failed to have proper waste evaluation documentation for the antifreeze.

In order for H&K to determine whether the antifreeze exhibits any hazardous waste characteristics, H&K must obtain a chemical analysis of a representative sample of the antifreeze. H&K will need to contract the services of an environmental laboratory to analyze this material. H&K must at least determine the concentrations of the RCRA metals in the waste.

Due to the cost of sampling and analyzing this material, H&K has the option of analyzing the antifreeze for total RCRA metals. However, based on the results of this test, a TCLP test for RCRA metals may also be required.

H&K shall submit the analytical results indicating the proper evaluation of the antifreeze. 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, H&K must explain what treatment, storage, or disposal facility the waste will be sent to. H&K must also submit an MSDS for the parts washer solution.

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.

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

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'".

H&K failed to mark two used oil tanks located in the back shop and ten used oil tanks located in the front shop with the words "Used Oil."

H&K marked all twelve tanks with the words "Used Oil" while Ohio EPA was on site.

*Therefore, this violation was abated on February 23, 2009.*

**General Concerns:**

- A. **Used Oil:** During the inspection, H&K told Ohio EPA that used oil was generated from changing oil filters on automobiles. Ohio EPA would like to remind H&K that prior to crushing the oil filters, H&K must not drain all oil filters to remove the excess used oil. Once the used oil is removed from the filter, the filter is no longer considered a waste if recycled as a scrap metal.

Ohio EPA would also like to remind H&K that only used oil that is generated at H&K or received from household do-it-yourselfers can be burned at the facility without following additional regulations. If H&K would like to burn used oil from other businesses, then additional regulations must be followed.

**This general concern serves as a reminder to H&K and is considered addressed.**

- B. **Sandblasting Sand and Other Waste Streams:** During the inspection, H&K stated that the sandblasting machine was rarely used. H&K said the sand from the machine had never been replaced since the machine had only been used a couple of times. Ohio EPA would like to remind H&K that prior to disposing of the sand in the trash, a proper waste evaluation should be completed. Sandblasting sand can be hazardous for RCRA metals. Therefore, H&K should obtain a representative sample of the sand and submit it to an environmental laboratory to determine the concentrations of RCRA metals in the sand prior to disposal.

As a business all waste streams that are generated at the facility need to be evaluated prior to disposal. This includes waste streams that are generated from daily business and waste streams generated from the maintenance or upkeep of the facility itself. Any waste streams generated by H&K now that have not been evaluated or any waste streams generated in the future by H&K should be evaluated prior to disposal to determine if they are hazardous waste. If H&K has any questions on waste evaluation, please call Ohio EPA at the number listed below.

**This general concern serves as a reminder to H&K and is considered addressed.**

- C. **Parts Washer Fluid:** OAC rule 3745-51-01(C)(1) states "A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing..." A secondary material that is further used, for its intended purpose as a product, is not spent or a waste. It does not necessarily need to serve its original use. Solvents that are still fit for use are not spent materials (and hence not hazardous wastes) when used for their intended purposes. This practice is considered continued use of a product.

At the time of the inspection, H&K was having both parts washers serviced once a month. Each servicing generates between 30 and 50 gallons of parts washer solution per month. This solution was being taken by Vesco Oil Corporation (Vesco). Ohio EPA contacted Vesco during the inspection to see if the parts washer fluid was in a continued use program. Although Vesco is reusing the parts washer fluid, Vesco filters the parts washer fluid before it is reused. This filtering is considered processing of a material. Since the parts washer fluid has to be filtered prior to reuse, and cannot be used "as is" once it leaves H&K, it is not considered to be in a continued use program.

Ohio EPA spoke to H&K during the inspection about the frequency of the parts washer servicing. According to H&K, the parts washers do not get used on a regular basis. Therefore, the parts washer fluid may be able to be serviced only once every two or three months. At the time of the inspection, H&K seemed very open to changing the frequency of the parts washer servicing. Ohio EPA recommends that H&K change the frequency of servicing the parts washers to as infrequent as possible. This practice will not only reduce the cost associated with servicing the parts washers, but also reduce the amount of waste being generated from the parts washers.

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H&K may also want to research other companies that will service parts washers to find a facility that can use the parts washer fluid for continued use once it leaves H&K. If H&K can find a facility that will place the parts washer fluid in a continued use program, then this waste will not be counted toward H&K's hazardous waste generator status.

**Within 30 days of receipt of this letter**, H&K should submit information to Ohio EPA that documents the changes made to the frequency of the parts washer servicing. This could include a contract with the company servicing the parts washers that spells out the frequency of servicing, a written letter from the company stating they understand the reduction in frequency and will abide by H&K's request, or other documentation that states the new frequency of servicing.

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*

Kara Reynolds  
Environmental Specialist  
Division of Hazardous Waste Management

/cs

Enclosures

pc: Colleen Weaver, DHWM, NWDO  
Kara Reynolds, DHWM, NWDO  
Cindy Lohrbach, DHWM, NWDO  
~~DHWM, NWDO~~ Putnam County File: H&K Chevrolet Pontiac Buick

**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.