



State of Ohio Environmental Protection Agency

Northwest District Office

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

**RE: First Avenue Towing
Seneca County
DHWM, NWDO
Complaint 2803
Notice of Violation**

September 19, 2008

Mr. Tim Peacock
First Avenue Towing
221 First Avenue
Tiffin, OH 44883

Dear Mr. Peacock:

On September 4, 2008, Amber Hicks and I, representing the Ohio Environmental Protection Agency (Ohio EPA), investigated a complaint and conducted a used oil inspection at First Avenue Towing (FA) located at 221 First Avenue, Tiffin, Ohio. According to the complaint received by Ohio EPA, the complainant alleged that this auto shop was allowing material to be released onto the ground and dumping used oil down the drains. This letter will explain the validity of the complaint.

FA is an automotive repair shop. At the time of the investigation, no hazardous waste was being generated at this site. However, FA does generate used oil and batteries.

Complaint

Upon arrival to the site, Ohio EPA spoke to you concerning the management of used oil at the site. FA has a used oil burner on site to heat the building. Ohio EPA observed the drums where the used oil is kept at the facility. The used oil drums were not labeled properly, which resulted in the first violation listed below. Ohio EPA also observed the drains in the facility and it does not appear that any used oil is being disposed of through the drainage system.

Ohio EPA discussed used oil spills during the investigation but would like to remind FA that Ohio Administrative Code (OAC) Rule 3745 279-22 (D), Used Oil Requirements for Generators states "Response to releases. Upon detection of a release of used oil to

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the environment that is not subject to the requirements of Chapter 1301:7-9 of the Administrative Code and which has occurred after October 20, 1998, 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." Ohio EPA understands that this site has been an automotive repair shop under your ownership for over ten years and was previously owned by your father for many years prior to you. Ohio EPA also understands that FA has a used oil burner to help save energy costs during the winter, and therefore, all used oil is burnt to the extent possible. However, a conscious effort must be made to clean up any used oil spills at the site. Any material contaminated with used oil must also be properly evaluated prior to disposal. For more information I have enclosed the following fact sheets titled The Regulation of Used Oil: An Overview for Ohio Businesses Who Generate Used Oil, dated April 2006; The Regulation of Used Oil: Used Oil Burners, dated August 2005; and Use of Generator Knowledge In Complying with OAC rule 3745-52-11 Hazardous Waste Evaluation, dated July 18, 2005.

While Ohio EPA investigated the drains at the facility, you stated that debris is removed from the drains approximately every four months and disposed of in the landfill. In a phone conversation on September 17, 2008, you stated that this debris has not been evaluated and approximately 5 gallons of waste debris is generated every four months. The fact that this waste stream has not been evaluated has resulted in the second violation listed below.

Violations:

1. **Ohio Administrative Code (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'".

FA failed to mark thirteen 55-gallon drums located on the west side of the shop with the words "Used Oil."

FA marked all thirteen 55-gallon drums with the words "Used Oil" while Ohio EPA was on site.

Therefore, this violation was abated on September 4, 2008.

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2. **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..."

FA removes five gallons of debris from the drain inside the building approximately every four months. FA failed to determine if the debris removed from the drain was a hazardous waste in accordance with OAC Rule 3745-52-11.

In order to abate this violation, FA must submit a description of how this waste will be evaluated prior to disposal, the next time it is generated. This description should include how a representative sample of the waste stream will be taken and by whom, what chemical analyses will be run on the sample, and the name, address, and phone number of a laboratory that will analyze the sample. FA will need to contract the services of an environmental laboratory to analyze this material.

FA must analyze the sample for Toxicity Characteristic Leaching Procedure (TCLP) Resource Conservation and Recovery Act (RCRA) metals and TCLP volatile organic compounds (VOCs). However, as a screening method, FA has the option of analyzing the debris for total RCRA metals and total VOCs. However, based on the results of these tests, a TCLP test for RCRA metals and a TCLP test for VOCs may also be required.

For more information the following fact sheets have been enclosed: Identifying Your Hazardous Waste, dated November 2006; Violations Most Frequently Cited by Division of Hazardous Waste Management Inspectors, dated September 17, 2008; and Environmental Laboratories, November, 2004.

Although Ohio EPA is not requiring FA to sample and analyze this material at this time, compliance with this rule will be determined at a later date.

Please be advised that a full compliance evaluation inspection was not conducted at this site. Ohio EPA's failure to list specific deficiencies or violations in this letter does not relieve you from having to comply with all applicable regulations.

The Division of Hazardous Waste Management (DHWM) has created an electronic news service to provide you with quick and timely updates on events and news related to hazardous waste activities in Ohio.

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If you haven't already, we encourage you to sign-up for this free service. You can find more information at the following Web link <http://www.epa.state.oh.us/dhwm/listserv.html>. Please feel free to share this information with your colleagues.

You can find copies of the rules and other information on the division's web page at <http://www.epa.state.oh.us/dhwm>. Ohio EPA has helpful information about pollution prevention at the following web address: <http://www.epa.state.oh.us/ocapp/ocapp.html>.

Should you have any questions or if I can be of assistance, please contact me at (419) 373-3065.

Sincerely,



Kara Reynolds
Environmental Specialist
Division of Hazardous Waste Management

/lb

Enclosures

cc: Colleen Weaver, DHWM, NWDO
Kara Reynolds, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
~~DHWM, NWDO, Seneca County File: Seneca County General 2005-~~

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.

Ohio Environmental Protection Agency
**RCRA SUBTITLE C SITE
 IDENTIFICATION/VERIFICATION FORM**

For Ohio EPA use only

E-mail this completed form to kristina.durnell@epa.state.oh.us
 or mail it to Kristina Durnell, Central Office

Site EPA ID No.	EPA ID Number:								
Site Name	Name: First Avenue Towing					Website: (Optional)			
Site Location Information	Street Address: 221 First Avenue								
	City, Town, or Village: Tiffin					State: OH			
	County Name: Seneca					Zip Code: 44883			
Site Land Type (check only one)	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>	
NAICS code(s) www.census.gov/epcd/www/naics.html									
Facility Representative Additional names can be recorded in number 12 Only provide address information if it is different than the site address	First Name: Tim			MI:	Last Name: Peacock				
	Phone Number: 419-447-1232				Phone Number Extension:				
	E-Mail Address:								
	Fax Number:				Fax Number Extension:				
	Street or P.O. Box:								
	City, Town or Village:			State:			Country:		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: Tim Peacock				Date Became Owner (mm/dd/yyyy): May 1998				
	Owner Type:	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box: 221 First Avenue								
	City, Town or Village: Tiffin				Owner Phone #: 419-937-6086				
	State: Ohio				Country: USA		Zip Code: 44883		
	Name of Site's Operator: First Avenue Towing				Date Became Operator (mm/dd/yyyy):				
	Owner Type:	Private <input type="checkbox"/>	County <input type="checkbox"/>	District <input type="checkbox"/>	Federal <input type="checkbox"/>	Indian <input type="checkbox"/>	Municipal <input type="checkbox"/>	State <input type="checkbox"/>	Other <input type="checkbox"/>
	Street or P.O. Box:								
	City, Town or Village:				Operator Phone #:				
	State:				Country:		Zip Code:		
Violations Cited?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No								
Type of Generator									
<input type="checkbox"/> Not Regulated				<input type="checkbox"/> Conditionally Exempt Small Quantity Generator					
<input checked="" type="checkbox"/> UNKNOWN: Cited for violation of 3745-52-11				<input type="checkbox"/> United States Importer of Hazardous Waste					
<input type="checkbox"/> Large Quantity Generator (LQG)				<input type="checkbox"/> Mixed Waste (Hazardous and Radioactive) Generator					
<input type="checkbox"/> Small Quantity Generator (SQG)									
Type of Regulated Waste Activity (Mark "X" in all of the appropriate boxes)									
<input type="checkbox"/> Recycler of Hazardous Waste				<input type="checkbox"/> Exempt Boiler and/or Industrial Furnace					
<input type="checkbox"/> Underground Injection Control Facility				<input type="checkbox"/> Small Quantity On-Site Burner Exemption					
<input type="checkbox"/> Hazardous Waste Transporter				<input type="checkbox"/> Smelting, Melting, Refining Furnace Exemption					
<input type="checkbox"/> Treater, Storer or Disposer of Hazardous Waste									

Universal Waste Activities (Indicate types of universal waste generated and/or accumulated (check all boxes that apply))			
<input type="checkbox"/> Small Quantity Handler of Universal Waste		<input type="checkbox"/> Large Quantity Handler of Universal Waste (accumulates 5,000 kg. or more)	
<input type="checkbox"/> Destination Facility for Universal Waste			
(Check all boxes below that apply for each of the three types of facilities above)		Used Oil Activities (Indicate Type(s) of Activity(ies))	
	Managed	<input checked="" type="checkbox"/> Used Oil Generator	<input type="checkbox"/> Off-Specification Used Oil Burner
Batteries	<input checked="" type="checkbox"/>	<input type="checkbox"/> Used Oil Transporter	<input type="checkbox"/> Used Oil Fuel Marketer Who Directs Shipment of Off-Spec. Oil
Pesticides	<input type="checkbox"/>	<input type="checkbox"/> Used Oil Transfer Facility	<input type="checkbox"/> Used Oil Fuel Marketer to Off-Specification Used Oil Burner
Mercury containing equipment	<input type="checkbox"/>	<input type="checkbox"/> Used Oil Processor	
Lamps	<input type="checkbox"/>	<input type="checkbox"/> Used Oil Re-refiner	
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 if more space is needed. If there are more than 7 waste codes and they are the same as listed in the most recent RCRA Info source record, you do not need to list them all. Instead just indicate the date of the most recent source record.			
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 type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Other Comments:
Containers	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	
Name of Inspector(s)		Name of Inspector(s)	Date of Inspection/Time (mm/dd/yyyy) (hh:mm)
Kara Reynolds		Amber Hicks	9/4/2008 2:50 PM
OPTIONAL CERTIFICATION: I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.			
Signature of Owner, Operator, or an Authorized Representative		Name and Title (Print)	Date (mm/dd/yyyy)

**USED OIL INSPECTION CHECKLIST
GENERATORS, COLLECTION CENTERS AND AGGREGATION POINTS**

NOTE: A facility is subject to the federal SPCC regulations (40 CFR 112) if it is non-transportation related (e.g., fixed) and has an aggregate above ground storage capacity greater than 1,320 gallons or a total underground storage capacity greater than 42,000 gallons of oil (including used oil), and there is reasonable expectation of a discharge to navigable waters.

PROHIBITIONS

1.	Does the generator manage used oil in a surface impoundment or waste pile? If yes:	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
a.	Is the surface impoundment or waste pile regulated as a hazardous waste management unit? [3745-279-12(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
<i>NOTE: For example, used oil contaminated scrap metal stored in a pile.</i>		
2.	Is used oil used as a dust suppressant? [3745-279-12(B)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
3.	Is off-specification used oil fuel burned for energy recovery in devices specified in 3745-279-12(C)?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

NOTE: Multiple used oil checklists may be applicable if used oil handler is performing multiple tasks (e.g., if generating used oil and shipping directly to a burner, complete generator and marketer checklists at a minimum).

GENERATOR STANDARDS

4.	Does the generator mix hazardous waste with used oil? If so,	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
a.	Is the mixture managed as specified in 3745-279-10(B)? [3745-279-21(A)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

NOTE: Used Oil mixed with listed (3745-51-30 to 3745-51-35) or characteristic (3745-51-20 to 3745-51-24) hazardous waste are subject to regulation as a hazardous waste, unless the listed hazardous waste is listed solely because it exhibits a hazardous characteristic, and the resultant mixtures do not exhibit a characteristic. Mixtures of used oil and CESQG hazardous waste are subject to OAC Chapter 3745-279.

5.	Does the generator of a used oil containing greater than 1,000 ppm total halogens manage the used oil as a hazardous waste unless the presumption is rebutted successfully? [3745-279-21(B)]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
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NOTE: If used oil contains greater than 1000 ppm total halogens, it is presumed to be listed hazardous waste until the presumption is successfully rebutted.

6.	Does the generator store used oil in tanks; or containers; or a unit(s) subject to regulation as a hazardous waste management unit? [3745-279-22(A)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
7.	Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
8.	Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)]	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A <input type="checkbox"/>
9.	Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)]	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
a.	Stopped the release?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
b.	Contained the release?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
c.	Cleaned up and properly managed the used oil and other materials?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
d.	Repaired or replaced the containers or tanks prior to returning them to service, if necessary?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

ON-SITE BURNING IN SPACE HEATER

10.	Does the generator burn used oil in used-oil fired space heaters? [3745-279-23] If so:	
a.	Does the heater burn only used oil that owner/operator generates or used oil received from household do-it-yourself (DIY) used oil generators?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

b.	Is the heater designed to have a maximum capacity of not more than 0.5 million BTU per hour?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>
c.	Are the combustion gases from heater vented to the ambient air?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> N/A <input type="checkbox"/>

NOTE: Ash accumulated in a space heater must be managed in accordance with 3745-279-10(E).

GENERATOR TRANSPORTATION

11.	Does the generator have the used oil hauled only by transporters that have obtained a U.S. EPA ID#?	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
12.	If the generator self-transport used oil to an approved collection site or to an aggregation point owned by the generator: [3745-279-24]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
a.	Does the generator transport used oil in a vehicle owned by the generator or an employee of the generator?[3745-279-24]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
b.	Does the generator transport more than 55 gallons of used oil at any time?[3745-279-24]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

NOTE: Used oil generators may arrange for used oil to be transported by a transporter without a U.S. EPA ID # if the used oil is reclaimed under a contractual agreement (i.e., tolling arrangement).

COLLECTION CENTERS AND AGGREGATION POINTS

13.	Is the DIY used oil collection center in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-30]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
14.	Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>
15.	Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32]	Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" type="checkbox"/>

NOTE: Complete Used Oil Generator and any other applicable used oil handler checklist (e.g., marketer, burner, etc.) for used oil collection centers and aggregation points.