



State of Ohio Environmental Protection Agency

Northwest District Office

347 North Dunbridge Road
Bowling Green, OH 43402-9398

TELE: (419) 352-8461 FAX: (419) 352-8468
www.epa.state.oh.us

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

Re: Complaint #2661
Bates Recycling, Inc.
Wood County
Complaint Investigation/Used Oil
Notice of Violation

July 10, 2007

Mr. Chris Bates, Owner
Bates Recycling, Inc.
12729 Jerry City Road
Cygnet, Ohio 43413

Dear Mr. Bates:

Thank you for accompanying me during the June 11, 2007, complaint investigation and subsequent used oil inspection of Bates Recycling, Inc. (BRI) located at 12729 Jerry City Road, Cygnet, Ohio. Ohio EPA, Division of Hazardous Waste Management, received a referral from Rick Hassinger, Ohio EPA Special Investigator. Mr. Hassinger visited your facility as a result of an open burning complaint. Mr. Hassinger stated that you had some questions about how to manage your spent lead acid batteries. A used oil inspection was conducted to determine your facility's compliance status with Ohio's used oil regulations as adopted under Chapter 3745-279 of the Ohio Administrative Code (OAC). The inspection included a tour of your property.

BRI operates a metal recycling business. BRI collects various kinds of metal parts including junk cars, scrap metal from businesses, etc. Cars are stripped of fuel tanks and lead acid batteries. Engines are left in the cars and sold to salvage yards. No auto fluids are collected from cars. Residual fuel is collected and used in employees' personal motor vehicles. Hydraulic fluid is drained and stored in 55-gallon drums and filtered. Filtered hydraulic fluid is put back in heavy machinery onsite as use as fuel. Steel used filters are recycled. Used oil generated from maintenance activities onsite is containerized in metal 55-gallon drums.

During my visit, you stated that you are currently taking your used oil to a friend to be burned in his used oil furnace. You must stop this practice immediately. As I stated during my inspection, you must be a licensed hauler of used oil in order to do this. However, you are allowed to transport to an aggregation facility or to a recycling facility without being subject to the used oil transporter requirements if you use your own vehicle or a vehicle owned by an employee and you transport no more than 55 gallons at a time. You stated that you are identifying a recycling company to take your used oil. I observed several large stains of what appeared to be used oil around the used oil storage 55-gallon drums. In addition, I observed a pallet with lead acid batteries in the back of the facility near the metal cutting area. You stated that you store the batteries until Ohio Battery, Ashland, Ohio, picks them up for recycling. You do not remove any battery acid from the batteries and store the batteries in such a manner as to prevent the release of the acid.

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During my inspection I found the following violations regarding the used oil regulations. In order to correct these violations you must do the following and send me the required information **within 30 days** of your receipt of this letter:

1. **Used oil storage requirements for generators - OAC 3745-279-22(C)(1) - Labels**

Containers and above ground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil."

BRI did not properly label any of the containers that stored used oil. BRI labeled all containers with the words "Used Oil" during the inspection.

This violation was abated.

2. **Used oil storage requirements for generators - OAC 3745-279-22(D) - Response to releases**

Generators shall clean up and properly manage a release of used oil.

BRI did not clean up oil releases around the 55-gallon drums and nearby on the property as evidenced by heavily oil-stained soils.

BRI shall immediately clean up all visible contamination around containers used to store used oil. This contaminated soil shall be placed on plastic or in containers in good condition prior to disposal. In order for BRI to determine whether the used oil-contaminated soil exhibits any hazardous waste characteristics, BRI must obtain a representative sample of the used oil-contaminated soil. BRI will need to contract the services of an environmental laboratory to analyze this sample. The sample must be analyzed for Toxic Characteristics Leaching Procedure of the RCRA metals (as stated in OAC Rule 3745-51-24), not including mercury.

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

Based on the results of the analytical, BRI shall dispose of the waste properly. Additionally, BRI shall submit to me **copies of the analytical results** indicating the proper evaluation of the used oil-contaminated soil, **appropriate manifest documents or shipping papers indicating proper disposal** of the used oil-contaminated soil, **and pictures indicating the release has been cleaned up**. Your results must document if the waste is hazardous or not and whether it is restricted from land disposal. If it is hazardous, you must explain what treatment, storage or disposal facility you will send it 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.

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Ohio EPA will use the data you provide, in addition to other documentation, to make regulatory decisions concerning the wastes tested. The data you submit should be reviewed using a data review process, referred to as data validation, to confirm the validity of your data prior to submission. Data validation includes a review of the following components: laboratory test methods, laboratory data completeness, documentation of holding time(s), chain(s) of custody, and quality assurance/quality control (QA/QC) data. To confirm the validity of your data, you may use Ohio EPA's tier 1 data validation plan review form which can be obtained from Ohio EPA's web page at http://www.epa.state.oh.us/dhwm/tier_i_data_validation_manual.html.

Ohio EPA may request the documentation needed to confirm the validity of the data submitted. *Please submit a brief narrative of each sampling event which includes: the process generating the waste, point in the process the sample was obtained, sampling techniques used to obtain the sample and a description of how this sample was determined to be a representative sample of the waste tested.*

Additional Issues:

1. Used Oil Management

During the inspection, you stated that you are identifying a facility to be able to send your used oil for recycling. I provided you with a list of used oil recyclers across Ohio and the country. When you make a final decision, submit a written statement to me (on the recycling company's letterhead if applicable) of what you are planning to do.

During the inspection I provided you with the following document: Managing Your Hazardous Waste, A Guide for Small Businesses, July 2002; Universal Waste, December 2004; Universal Waste Rules for Handlers of Lamps, June 2005; and Computer, Fluorescent Lamp, and Ballast Recyclers, June 2005.

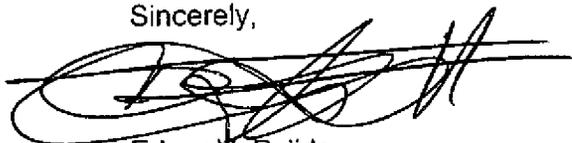
If you would like additional information on pollution prevention, you can visit the Ohio EPA's pollution prevention website: <http://www.epa.state.oh.us/ocapp/ocapp.html>. The information provided at this site may offer additional ways to recycle, reduce or altogether eliminate the amount of waste that is taken to a landfill. 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 will issue an EPA ID number to track our inspection activity at BRI. BRI cannot use this number for manifesting hazardous waste shipments. If BRI wants to use an EPA ID number for manifesting and other hazardous waste, used oil or universal waste activities, BRI must complete and submit a Notification of Regulated Waste Activity form (*EPA Form 9029 (Rev. 11/2002)*) to Ohio EPA. This form is available by calling the Division of Hazardous Waste Management, Central Office, RIS at (614)644-2977 and we will mail you a copy; or online at <http://www.epa.state.oh.us/dhwm/notiform.html>.

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Enclosed you will find a copy of the checklists that I completed as a result of my inspection. Please address all correspondence to Ed Pulido, Ohio EPA, Division of Hazardous Waste Management, 347 North Dunbridge Road, Bowling Green, Ohio 43402. Should you have any questions, please feel free to call me at (419)373-3015. 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,



Edgar V. Pulido
Division of Hazardous Waste Management

/cs

Enclosures

pc: Colleen Weaver, DHWM, NWDO
Cindy Lohrbach, DHWM, NWDO
DHWM, NWDO File: Wood County General File
NWDO Follow-up File

ec: Ed Pulido, DHWM, NWDO

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.
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USED OIL INSPECTION CHECKLIST (Short Version)

NOTE: *This checklist does not include requirements for used oil transporters and transfer facilities, processors and re-refiners, burners, and marketers.*

PROHIBITIONS

1. Is used oil being managed in a surface impoundment or waste pile? If so: Yes No N/A RMK#
- Is the surface impoundment or waste pile being regulated under OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-12(A)] Yes No N/A RMK#
2. Is used oil being used as a dust suppressant? [3745-279-12(B)] Yes No N/A RMK#
3. Is off-specification used oil fuel burned for energy recovery only in devices specified in 3745-279-12(C)? Yes No N/A RMK#

USED OIL GENERATOR STANDARDS

4. Does the generator mix hazardous waste with used oil only as provided in 3745-279-10(B)? [2745-279-21(A)] Yes No N/A RMK#
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 No N/A RMK#
6. Does the generator only store used oil in tanks, containers, or units subject to OAC 3745-54 to 3745-57 and 3745-205 or 3745-65 to 3745-69 and 3745-256? [3745-279-22(A)] Yes No N/A RMK#
7. Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)] Yes No N/A RMK#
8. Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)] Yes No N/A RMK#
9. Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)]
- a. Stopped the release? Yes No N/A RMK#
- b. Contained the release? Yes No N/A RMK#

c. Cleaned up and properly managed the used oil and other materials?

Yes No N/A RMK#

d. Repaired or replaced the containers or tanks prior to returning them to service, if necessary?

Yes No N/A RMK#

10. Does the generator burn used oil in used fired space heaters? [3745-279-23] If so:

Yes No N/A RMK#

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 No N/A RMK#

b. Is the heater designed to have a maximum capacity of not more than 0.5 million BTU per hour?

Yes No N/A RMK#

c. Are the combustion gases from heater vented to the ambient air?

Yes No N/A RMK#

11. Does the generator have the used oil hauled only by transporters that have obtained U.S. EPA ID#, unless the generator qualifies for an exemption pursuant to 3745-279-24 (self transportation or tolling agreements)? [3745-279-24]

Yes No N/A RMK#

USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

12. 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 No N/A RMK#

13. Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31]

Yes No N/A RMK#

14. Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32]

Yes No N/A RMK#

WASTE EVALUATION

15. Have all wastes generated at the facility been evaluated? [3745-52-11]

Yes No N/A RMK#

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REMARKS

- c. Cleaned up and properly managed the used oil and other materials? Yes No N/A RMK# 2
- d. Repaired or replaced the containers or tanks prior to returning them to service, if necessary? Yes No N/A RMK#
10. Does the generator burn used oil in used fired space heaters? [3745-279-23] If so: Yes No N/A RMK#
- 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 No N/A RMK#
- b. Is the heater designed to have a maximum capacity of not more than 0.5 million BTU per hour? Yes No N/A RMK#
- c. Are the combustion gases from heater vented to the ambient air? Yes No N/A RMK#
11. Does the generator have the used oil hauled only by transporters that have obtained U.S. EPA ID#, unless the generator qualifies for an exemption pursuant to 3745-279-24 (self transportation or tolling agreements)? [3745-279-24] Yes No N/A RMK#

USED OIL COLLECTION CENTERS AND AGGREGATION POINTS

12. 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 No N/A RMK#
13. Is the non-DIY used oil collection center registered with Ohio EPA? [3745-279-31] Yes No N/A RMK#
14. Is the used oil aggregation point in compliance with the generator standards in 3745-279-20 to 3745-279-24? [3745-279-32] Yes No N/A RMK#

WASTE EVALUATION

15. Have all wastes generated at the facility been evaluated? [3745-52-11] Yes No N/A RMK#

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REMARKS

- #1 - Bates Recycling (BR) failed to have containers storing used oil properly labeled.
 #2 - BR failed to stop, contain, properly clean the release of used oil.

USED OIL INSPECTION CHECKLIST (Short Version)

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7. Are containers and aboveground tanks used to store used oil in good condition with no visible leaks? [3745-279-22(B)] Yes No N/A RMK#
8. Are containers, above ground tanks, and fill pipes used for underground tanks clearly labeled or marked "Used Oil?" [3745-279-22(C)] Yes No N/A RMK# 1
9. Has the generator, upon detection of a release of used oil, done the following: [3745-279-22(D)]
- a. Stopped the release? Yes No N/A RMK# 2
- b. Contained the release? Yes No N/A RMK# 2