

**Environmental
Protection Agency**

Governor
Lt. Governor
Director



January 17, 2012

RE: FOSTER TRUCKING LLC
MEDINA COUNTY
NON-NOTIFER
COMPLAINT NUMBER 7494
NOTICE OF VIOLATION

Donald Foster, Jr.
Foster Trucking
11864 New London Eastern Rd.
Spencer, OH 44275-9744

Dear Mr. Foster:

On January 5, 2012, I and John Paquelet as representatives of the Ohio EPA Division of Materials and Waste Management, visited Foster Trucking LLC (Foster Trucking) located at 11864 New London Eastern Rd., Spencer, with the intent of conducting an inspection for compliance with Ohio's hazardous waste and used oil regulations. No one was present at the time of our visit.

Subsequently a scheduled inspection visit was arranged and I returned to inspect the facility on January 10, 2012. You represented Foster Trucking during the inspection.

Ohio EPA had received a complaint alleging that used oil was being dumped into a pit and onto the ground behind the maintenance garage at your business. You reported a former employee had parked a truck with a leaking hydraulic system over one of the trenches in the garage, that the trench terminated in a depression behind the maintenance garage and that this oil had flowed into this depression. You reported that you collect used oil from oil changes on your vehicles and then burn used oil in the maintenance garage heater.

Foster Trucking operates a small trucking business at this location. Two trucks are used for hauling sand, gravel, etc., primarily for a concrete ready-mix facility. The facility has a maintenance garage used to store and maintain the trucks.

During the walk-through of your facility I observed the following:

- A depression, about one foot deep and about 2 feet in diameter behind the maintenance garage which was partly with water. Black material that appeared to be used oil was floating in a thin layer on top of the water. An oily sludge appeared to be present on the bottom of the depression.
- Four plastic totes about 300 gallons capacity located on gravel behind the maintenance garage which were nearly full of used oil. One tote had a small hole near the top of the tote at an elevation approximately equal to the liquid level in the tote, which you had patched in the time period between my first and second visits to the site.

- Several 55 gallon drums of used oil in the maintenance garage.
- One parts washer in the maintenance garage that used mineral spirits with a 141°F flash point as the solvent. Used solvent is reportedly mixed with used oil.
- Used oil space heater in the maintenance garage.
- Seven 55-gallon drums, six of which were being stored upside down on gravel behind the maintenance garage, all of which appeared to be empty.

The inspection included a review of the facility's operations, as well as waste management practices and documentation. No hazardous wastes were observed during the inspection.

This letter will explain the violations I found and steps you need to take to correct them. I found the following violations of Ohio's hazardous waste, used oil and universal waste laws and regulations:

1. **OAC 3745-279-22(C)(1) Used Oil Containers Must Be Labelled With The Words "Used Oil"**

Four plastic totes and several 55-gallon drums holding used oil were on-site at the time of the inspection. None were labelled or marked with the words "Used Oil". All were labelled with the words "Used Oil" during the inspection.

Labelling the containers during the inspection abated this violation. No further action regarding this violation is necessary at this time. In the future all containers holding used oil should be marked with the words "Used Oil".

2. **OAC 3745-279 22(D) Generator must respond to used oil releases and perform cleanup steps**

A release of used oil was observed in the depression, about one foot deep and about 2 feet in diameter, located behind the maintenance garage which was partly with water. Black material that appeared to be used oil was floating in a thin layer on top of the water and an oily sludge appeared to be present on the bottom of the depression.

OAC rule 3745 279 22(D) requires Foster Trucking, as a generator of used oil, to respond to releases of used oil. Foster Trucking must take the following steps to respond to this violation:

- A. Remove the oil floating on the water in the depression.
- B. Remove oily sludge on the bottom of the depression.
- C. Remove oil coated gravel adjacent to the depression.
- D. Removed materials that do not have free liquids can be placed in your trash dumpster, provided this is acceptable to your trash hauler.

- E. Used oil that is liquid can either be absorbed in an oil sorbent and then placed in your trash dumpster, provided this is acceptable to your trash hauler, or removed by a licensed used oil transporter for recycling of the oil and disposal of treated water.
- F. Submit pictures of the depression and excavated gravel areas after water and sludge are removed.
- G. Submit any documentation that you have (for example, a shipping manifest from a used oil hauler) or billing statement); or if all removed material is solidified and placed in your trash dumpster, submit a statement of how you disposed of the removed material.

Ohio EPA uses a visual standard when determining whether a clean-up of released used oil and any media (for example soil) containing used oil is adequate. That standard means that you should remove material until the area is visually free of used oil staining. Ohio EPA does not require confirmatory soil sampling and lab analysis to demonstrate that the release has been cleaned up.

Enclosed you will find a copy of the checklist completed during the January 10, 2012 inspection. Also enclosed are guidance documents that I mentioned during the inspection on management of used fluorescent lamps and management of used oil.

Foster Trucking needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. Within 14 days of receipt of this letter, Foster Trucking is requested to provide documentation to this office including the steps taken to abate the violations cited above. Documentation of steps taken to return to compliance includes written correspondence, updated policies, and photographs, as appropriate, and may be submitted via the postal service or electronically to neil.wasilk@epa.ohio.gov.

Please be advised that violations cited above will continue until the violations have been properly abated. Failure to comply with Chapter 3734 of the Ohio Revised Code and rules promulgated thereunder may result in a civil penalty of up to \$10,000 per day for each violation. It is imperative that you return to compliance. If circumstances delay the abatement of violations, Foster Trucking is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

Submit the above requested response documentation to this office within 14 days of receipt of this letter. Response correspondence sent by the U. S. Postal Service should be sent to:

**Neil Wasilk
Northeast District Office
Ohio Environmental Protection Agency
2110 East Aurora Road
Twinsburg, OH 44087**

CONCERNS

SPCC Plans

You should be aware that facilities that store in above ground oil storage more than 1,320 gallons of oil, including used oil and diesel fuel, require a Spill Prevention Control and Countermeasure Plan (SPCC Plan) to control potential for releases and response to releases. The volume of used oil you have on-site is in this neighborhood. I don't know how much diesel fuel you have in the on-site tank. A SPCC Plan would require secondary containment for used oil and diesel oil in storage and plan preparation may require hiring a Professional Engineer. You may want to limit the amount of oil you have on-site to avoid the need for an SPCC Plan. A Fact Sheet on SPCC Plans is attached for your information.

Should you have any questions regarding this letter, please contact me at (330) 963-1165.

Sincerely,



Neil J. Wasilk
Environmental Specialist
Division of Materials and Waste Management

NJW:ddw

cc: Marlene Kinney, Ohio EPA, DMWM, NEDO
ec: Natalie Oryshkewych, Ohio EPA, DMWM, NEDO
Nyall McKenna, Ohio EPA, DMWM, NEDO
Jeff Mayhugh, Ohio EPA, DMWM, CO
Shirley Phillips, Ohio EPA, DMWM, NEDO

Send to Central Office <input checked="" type="checkbox"/>	Ohio Environmental Protection Agency RCRA SUBTITLE C SITE IDENTIFICATION/VERIFICATION FORM	For Ohio EPA use only
---------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------	-----------------------

Completed verification forms required to be submitted to CO should be e-mailed to brad.hauser@epa.state.oh.us.

Site EPA ID No.	EPA ID Number:	
Site Name	Name: Foster Trucking LLC	
Site Location Information	Website: (Optional)	
Site Land Type (check only one)	Street Address: 11864 New London Eastern Rd.	
NAICS code(s) www.census.gov/epcd/www/naics.html	City, Town, or Village: Spencer	
	State: OH	
	County Name: MEDINA	
	Zip Code: 44275	
	Private <input checked="" 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"/>	

Facility Representative	First Name: Donald		MI:	Last Name: Foster	
Additional names can be recorded in number 12	Title:		Phone Number: 440-421-3503		Phone Number Extension:
Only provide address information if it is different than the site address	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):		
	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:		Owner Phone #:		
	City, Town or Village:		Country:		Zip Code:
	State:		Date Became Operator (mm/dd/yyyy):		
	Name of Site's Operator:	Operator 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? Yes No

TYPE OF HANDLER - MARK "X" AS APPROPRIATE	
<input checked="" 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 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

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.

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

- Announced Yes No Additional Facility Representatives:
Tanks Yes No
Containers Yes No

Name of Inspector(s)	Name of Inspector(s)	Date of Inspection/Time (mm/dd/yyyy) (hh:mm)
N. Wasilk		01/10/2012 12:55 p.m.

Comments:

John Paquelet and Neil Wasilk had visited facility unannounced on 1-5-12 but no one was present; consequently the follow-up inspection was scheduled.

**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"/>

NOTE: For example, used oil contaminated scrap metal stored in a pile.

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"/>
----	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------

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 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 type="checkbox"/> No <input checked="" 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 type="checkbox"/> No <input type="checkbox"/> N/A <input checked="" 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]	
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.