



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

Re: Murphy Oil USA #7169
OHR000156299
Auglaize County
2nd Notice of Violation

August 12, 2013

CERTIFIED MAIL

Mr. Brad Weinischke, Environmental Compliance Coordinator
Murphy Oil USA
P. O. Box 7300
El Dorado, Arkansas 71731 – 7300

Dear Mr. Weinischke:

On December 28, 2012, I conducted a hazardous waste compliance evaluation inspection (CEI) of Murphy Oil USA #7169 (Murphy) located at 1281 Bellefontaine Street, Wapakoneta, Ohio. Based on this inspection, I sent you a Notice of Violation (NOV) dated January 16, 2013. You submitted a partial response to me on January 24, 2013, via email, and subsequently we had email correspondence several times including me sending you information on possible companies for recycling your spent gas filters on January 28, 2013.

I emailed you on February 14, 2013, inquiring as to when I will receive the rest of your response to my January 16, 2013, NOV. You emailed me back that day stating you were working on the rest of your response. I have not received anything else, to date, from you.

Murphy remains in violation of the following hazardous waste rule. Murphy needs to immediately take the necessary measures to return to compliance with Ohio's environmental laws. **Within 14 days of receipt of this letter**, Murphy is requested to provide documentation to this office including the steps taken to abate the violation cited below. 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 amber.hicks@epa.ohio.gov.

1. **Waste Evaluation.**
OAC Rule 3745-52-11

Any person who generates a waste must determine if that waste is a hazardous waste in accordance with the criteria for hazardous waste as set forth in Chapter 3745-51 of the Administrative Code.

- A. Murphy failed to have waste evaluation documentation for the gas pump filters generated at your store or a recycling plan in place for the gas pump filters. Murphy is currently disposing of their gas pump filters in the trash. Murphy must cease disposing of their gas pump filters as non-hazardous waste in the local landfill until a proper waste evaluation has been completed.

Gas pump filters are likely to be hazardous for the characteristic of toxicity for benzene, thus upon being spent would most likely be a hazardous waste. Thus, this waste stream may not be disposed in any manner (in the trash, taken by a service contractor, etc.) until you have determined whether they are hazardous or not. Based on this determination, then they must be managed properly.

Properly drained metal fuel filters meet the regulatory definition of scrap metal and therefore, if recycled, are exempt from regulation as a hazardous waste. Fuel filters must be properly drained and if they no longer contain a significant liquid component then they qualify as scrap metal. As such, if recycled, the drained fuel filters are exempt from the hazardous waste regulations. If recycled, you would not have to evaluate this waste or have it managed as a hazardous waste if upon evaluation it is determined to be hazardous.

To properly evaluate the above waste stream, Murphy must take a representative sample of this waste to properly evaluate this waste stream through a laboratory analysis which lists constituents present and at what concentration. Murphy must sample the gas pump filters to determine the concentrations of benzene (D018), all of the Resource Concentration and Recovery metals (RCRA) metals (excluding mercury), and any other hazardous constituent that might reasonably be present in this waste stream as listed in OAC Rule 3745-51-24 following the methods as outlined in U.S. EPA's SW-846. Please note that the waste evaluation should be conducted at the waste generated from this store.

To abate this violation please submit one of the two options: 1) Murphy must submit the analytical information from sampling to me. Your results must document if the waste is hazardous or not.

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* or 2) documentation that the gasoline fuel filters will now be recycled as scrap metal.

If Murphy plans to sample the gasoline filters but has not generated any gasoline filters to date, please respond stating when you anticipate generation of this waste stream and that you will conduct sampling of this waste stream upon its next generation.

- B. During the CEI, Ms. Mormom stated that long socks/filters are placed on top of the underground gasoline tank to absorb water and for spill control. There are six socks which are changed twice a month and thrown in the trash. On January 24, 2013, you emailed me stating that this solid waste stream was exempt from hazardous waste regulation. Please note that this is not correct. ** Per OAC Rule 3745-52-11, any wastes generated must be evaluated to determine if they are a hazardous waste. Murphy is using the socks/filters to absorb water and gasoline spills and has been throwing these socks in the trash without conducting a waste evaluation to determine that this waste stream is, in fact, non-hazardous.

Thus based on your January 24, 2013, response Murphy failed to have waste evaluation documentation for the socks/filters generated at your store. Murphy is currently disposing of the socks/filters in the trash. Murphy must cease disposing of the socks/filters as non-hazardous waste in the local landfill until a proper waste evaluation has been completed.

Ohio EPA has spoken with another gasoline fuel station company. They utilize spill buckets to collect any incidental spills and then send the gasoline mixture for recycling as a commercial chemical product (thus this is exempt from the hazardous waste regulation)** as they do not want to generate a solid waste stream (booms, socks, filters) that they then must evaluate, manage and dispose. Murphy could consider this option.

This waste stream will vary each time the clean-up material is generated every two weeks. Murphy could also consider utilizing a drum to collect the clean-up materials and then conducting a waste evaluation on the drum of material when it is full versus conducting a waste evaluation every two weeks.

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To abate this violation, please submit one of the two options: 1) explain to me how Murphy plans to evaluate this waste stream; conduct the waste evaluation and submit the analytical to me. Murphy must sample the socks/filters to determine the concentrations of benzene (D018), all of the Resource Concentration and Recovery metals (RCRA) metals (excluding mercury), and any other hazardous constituent that might reasonably be present in this waste stream as listed in OAC Rule 3745-51-24 following the methods as outlined in U.S. EPA's SW-846. Please note that the waste evaluation should be conducted at the waste generated from this store or 2) if Murphy plans to cease generating this waste stream by implementing another method of collection of incidental gasoline spills (spill buckets), etc. then Murphy must submit this management plan to me.

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.

Additional area of concern:

- A. On January 10, 2013, you emailed me stating that Sylvania manages your bulbs for recycling and you were unsure of the amount of lamps generated per year at this store. On January 24, 2013, you emailed me stating that Clif Coker would be responding with a copy of the most recent service agreement for your fluorescent bulbs. I have not received this information to date.
- **To satisfy this area of concern** please submit either the most recent (one or two) receipts from store #7169 for the recycling of the lamps or an agreement document or some kind of verification from Sylvania that lamps generated by Murphy USA stores are recycled.

Please be advised that the violation cited above will continue until the violation has 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, Murphy is requested to submit written correspondence of the steps that will be taken by date certain to attain compliance.

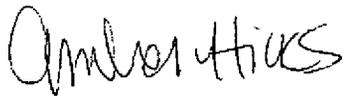
Murphy shall note that failure to abate this violation as outlined in this letter could lead to an enforcement referral to Ohio EPA's Central Office.

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If you need assistance in returning to compliance or should you have any questions, please feel free to call me at (419) 373-3082 or email me at amber.hicks@epa.state.oh.us.

You can find copies of the rules and other information on the division's web page at <http://epa.ohio.gov/dmwm/dmwmrules.aspx>.

Sincerely,



Amber M. Hicks
Division of Materials and Waste Management

/llr

pc: Lisa Gifford, DMWM, NWDO
Colleen Weaver, DMWM, NWDO
Certified Mail Receipt Number 7009 1410 0001 1834 9169

ec: Amber Hicks, DMWM, NWDO
Colleen Weaver, DMWM, 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.

** Gasoline fuel that is spilled and collected and then able to be used as a commercial chemical product, is not considered a waste, and is thus exempt from the hazardous waste regulations. Materials utilized to clean up gasoline spills (booms, pigs, socks, filters) are not exempt. This is a different, solid waste stream which must be evaluated per OAC Rule 3745-52-11.