



REGION 5

CHICAGO, IL 60604

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Mr. Adam Bujoll
Vice President
Metalworking Lubricants Company
1509 South Senate Avenue
Indianapolis, Indiana 46225
abujoll@metalworkinglubricants.com

Re: **Notice of Potential Violation and Opportunity to Confer**
Notice of Intent to File Civil Administrative Complaint Against Metalworking Lubricants
Company
EPA I.D.: IND000646950
Indianapolis, Indiana

Dear Mr. Bujoll:

I write to inform you that the United States Environmental Protection Agency plans to file an administrative complaint for civil penalties against Metalworking Lubricants Company (MWL) for alleged violations related to the management of used oil and other RCRA hazardous waste at its facility located at 1509 S Senate Avenue in Indianapolis (the Indianapolis Facility). We will allege that MWL violated RCRA, 42 U.S.C. §§ 6901 - 6992k, as amended. RCRA is a cradle-to-grave framework to ensure proper management of hazardous waste and used oil which, if handled in an unsafe manner, could present risks to humans and the environment.

Based on information provided by MWL, EPA's review of records pertaining to MWL, and the inspector's observations, MWL violated RCRA requirements related to hazardous waste permitting requirements and used oil storage at the Indianapolis Facility.

Please see the attachment for a list of the violations.

Based on information currently available to us, we plan to propose a penalty of \$1,799,950 in the complaint. In developing the penalty amount proposed in a complaint, EPA considers the particular facts and circumstances of the case, as well as EPA's penalty policy.

Please note that, in determining the appropriate penalty amount, EPA also may consider a violator's voluntary performance of a Supplemental Environmental Project ("SEP"). A SEP is a project that a violator has not otherwise planned to perform and is not otherwise legally required to perform, and is designed to either (1) reduce the likelihood that similar violations will occur in the future, (2) reduce adverse public-health or environmental impacts to which the violations contributed, or (3) reduce the overall risk to public health or the environment potentially affected by the violations. You may learn more about SEPs on EPA's SEP website, which includes a link to a database with examples of past-completed SEPs: <https://www.epa.gov/enforcement/supplemental-environmental-projects-seps>, and EPA's 2015 SEP Policy: <https://www.epa.gov/sites/default/files/2015-04/documents/sepupdatedpolicy15.pdf>.

If you are interested in proposing or discussing performance of a SEP as part of the settlement of this matter, please review the SEP Policy prior to our meeting. EPA would welcome discussion of any proposals or questions you may have about potential SEPs.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; evidence that we identified the wrong party; or financial data bearing on your ability to pay a penalty. If you believe that you will be unable to pay a \$1,799,950 penalty because of financial reasons, please electronically send us certified, complete financial statements including balance sheets, income statements and all notes to the financial statements, and your company's signed income tax returns with all schedules and amendments, for the past three years.

You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to EPA in response to this letter. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

Please send any written responses to this letter to:

r5lecab@epa.gov

and

brown.todd@epa.gov

If you want to confer with us regarding this Notice, you should contact Todd Brown, of my staff, at brown.todd@epa.gov or (312) 886-6091, requesting such a conference, within ten (10) calendar days after you receive this Notice. Please be advised that this conference is not a settlement negotiation covered by Federal Rule of Evidence 408 and we may use any information you submit in support of any administrative, civil or criminal action. After this conference (or after you have submitted a written reply), you will have an opportunity to engage in settlement negotiations before we file the complaint.

After 30 days from receipt of this letter, EPA may file a complaint without further notice against MWL as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

This letter is being made available to the State of Indiana as a means of notifying the State pursuant to Section 3008(a) of RCRA, as amended, that EPA is preparing to issue a formal enforcement action to MWL.

If you have any legal questions regarding this Notice, please contact Nicole Wood, Associate Regional Counsel, at wood.nicole@epa.gov or (312) 886-0664.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Enclosures

cc: Lori Freeman, Indiana Department of Environmental Management (IDEM), lfreeman@idem.in.gov
Jennifer Reno, IDEM, jreno@idem.in.gov

Enclosure
List of Violations

Metalworking Lubricants Company violated the following. Photograph references are for photographs contained in the RCRA compliance evaluation inspection (CEI) report for the April 25-28, 2022, CEI at Metalworking Lubricants Company. The inspection report was previously transmitted to Metalworking Lubricants by email on June 23, 2022, and February 28, 2024.

1. Under 329 IAC 13-7-3, used oil processing facilities must be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned, sudden, or nonsudden release of used oil to air, soil, or surface water that could threaten human health or the environment.
 - On April 25, 2022, used oil was observed overflowing down the side of tank P-23 (see photographs 5-6). The overflow was observed again on April 27, 2022 (see photograph 106).
 - On both April 25 and April 27, 2022, used oil was present in the secondary containment of the Process Tank Farm and the stairs leading into the tank farm (see photographs 7-9, 105, 107-108).
 - On April 26, 2022, used oil was observed in the secondary containment to the Blending Tank Farm (see photographs 21-22, 31, 34-35, and 37).
 - On April 26, 2022, evidence of past overflow was observed on the sides of Tanks B5 through B-8, and B-55 (see photographs 32-36).
 - On April 26, 2022, Tank B-8 was leaking (see photographs 38-39). In its March 28, 2024, response to an EPA notice of violation (NOV response), Metalworking Lubricants stated tank was repaired.
 - On April 27, 2022, used oil was present in the secondary containment to the East Tank Farm (see photographs 70-71, 114-115).
 - On April 27, 2022, releases were observed at the Process Loading Pad (see photograph 101).
 - On April 27, 2022, releases were observed at the C-Pad (see photographs 102-104).
2. Under 329 IAC 13-7-5(c), containers and above ground tanks used to store or process used oil at processing and re-refining facilities must: (1) be in good condition with no severe rusting, apparent structural defects, or deterioration; and (2) not be leaking (no visible leaks).

At the time of the inspection:

- Used oil was observed to be flowing down the side of tank P-23 (see photographs 5-6, and 106).
 - An active leak was observed from Tank B-8 (see photographs 38 and 39). In its March 28, 2024, response to an EPA notice of violation (NOV response), Metalworking Lubricants stated tank was repaired.
 - Tank B-24 was damaged (see photograph 23). The inventory indicated it contained 2,560 gallons “oil + solids.” In its NOV response, Metalworking Lubricants stated the tank was taken out of service.
 - Tank B31 was damaged (see photograph 44 and 45). The inventory indicated it contained 5,200 gallons “oil + solids.” In its NOV response, Metalworking Lubricants stated the tank was currently empty.
 - Tanker Trailer T-6 was damaged (see photographs 56 and 57).
 - The support leg to Tanker Trailer T-72 was sunken into the ground and the container was leaning (see photographs 61-63). In its NOV response, Metalworking Lubricants stated the trailer is now empty and out of service.
3. Under 329 IAC 13-7-5(d), containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system and meet the following requirements:

The secondary containment system must consist of, at a minimum:

(A) dikes, berms, or retaining walls, and a floor that must cover the entire area within the dike, berm, or retaining wall; or (B) an equivalent secondary containment system. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, ground water, or surface water.

The secondary containment system must be able to contain either at least ten percent (10%) of the total volume of the containers used to store used oil or the volume of the largest container used to store used oil at processing or re-refining facilities, whichever is greater.

- At the time of the inspection, a tanker trailer labeled, “Used Oil,” and reportedly containing “phoster oil” was located along the west side of the property and was not provided secondary containment as described at 329 IAC 13-7-5(d) (see photograph 53). Mr. Souders stated this trailer remained on-site and was not used for transportation.

- Tanker trailer numbers 82, 56, 58, 6, 85, 45, 88, and 72 were parked along the north side of the facility. Tanker 72 was located on a gravel/dirt surface. The other tanker trailers were located on a concrete pad, without dikes, berms or retaining walls. All the aforementioned tankers reportedly contained oily rag/sludge from oil processing and residual oil/sludge from customer loads. These trailers were not provided with secondary containment as described at 329 IAC 13-7-5(d).
 - Tanker trailer numbers, 93, 90, 70, 57, 66, 59, 65, and 42, were located along the east side of the property. They reportedly contained oily rag/sludge. These trailers were parked on a gravel/dirt surface, and were not provided with secondary containment as described at 329 IAC 13-7-5(d).
4. Under 329 IAC 13-7-5(g)(1), containers and aboveground tanks used to store or process used oil at processing and re-refining facilities must be labeled or marked clearly with the words "Used Oil".

At the time of the inspection, the following tanker cars of used oil were not labeled with the words, "Used Oil." Tanker trailer numbers: 82, 56, 58, 6, 85, 45, 88, 72, 93, 90, 70, 57, 66, 59, 65, and 42. In its NOV response, Metalworking Lubricants stated it labeled the containers.

5. Under 329 IAC 13-7-3(b)(2) a used oil processor must have a contingency plan that includes, among other times:
- A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services under 329 IAC 13-7-3(a)(6);
 - An up-to-date list of names, addresses, and office and home phone numbers of all persons qualified to act as emergency coordinator as described in subdivision (6). Where more than one (1) person is listed, one (1) must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates;
 - An up-to-date list of all emergency equipment at the facility, such as fire extinguishing systems, spill control equipment, communications and internal and external alarm systems, and decontamination equipment, where this equipment is required. In addition, the plan must include the location and a physical description of each item on the list and a brief outline of its capabilities; and
 - An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal or signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes in cases where the primary routes could be blocked by releases of used oil or fires.

If the owner or operator has already prepared a spill prevention, control, and countermeasures (SPCC) plan in accordance with 40 CFR Part 112, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this article.

MWL's June 2021 SPCC plan:

- Does not include a description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.
 - Does not include the home addresses of emergency coordinators, and lists Mr. Bernie Ingle, who is no longer employed at MWL.
 - Does not include an up-to-date list of all emergency equipment at the facility that includes the location and physical description of each item on the list and a brief outline of its capabilities. A list of equipment with general locations is included on page 1-13. Equipment capabilities are not provided there. Fire extinguisher locations are provided as, "Throughout Plant." The contents of spill kits are not described.
 - Does not include an evacuation plan for facility personnel describing the signal or signals to be used to begin evacuation, evacuation routes, and alternate evacuation routes in cases where the primary routes could be blocked by releases of used oil or fires. Evacuation routes are not described, other than to instruct employees to leave through "nearest plant exit" and to identify the assembly point.
6. Under 329 IAC 3.1-13-1 and 3.1-13-3(a) and (d), any person who is required to have a permit, including a new applicant and a permittee with an expiring permit, shall complete, sign, and submit an application to the commissioner as described in this section and 40 CFR §§ 270.70 through 270.73.

MWL does not have a permit for storage of hazardous waste.

- At the time of the inspection, MWL was storing hazardous spent caustic waste in Tanker Trailer Number T-0532.
- At the time of the inspection, there were four (4) totes labeled, "used caustic" (photographs 81-86) and three totes of caustic die cleaning solution (photographs 87-89) located at the "A Pad."
- At the time of the inspection, MWL was storing hazardous spent caustic waste in Tanks C2, C3, D3, K1, K2, P2, ST9, ST10 and ST14.

According to the NOV response, as of March 28, 2024, Metalworking Lubricants was storing 171,338 gallons of spent caustic in storage tanks.

According to waste profiles provided at the time of the inspection and in the NOV response, the spent caustic waste possessed the characteristic of corrosivity and arsenic, chromium, lead, mercury, selenium, and silver toxicity. The spent caustic was received off-site for intended use in wastewater treatment. At the time of the inspection, the Plant Manager stated the spent caustic could not be used in wastewater treatment due to its effect on wastewater treatment plant effluent quality. Metalworking Lubricants permit to discharge wastewater to the publicly owned treatment works was revoked by December 2022.