

From: Byer, James
Sent: Thursday, December 29, 2005 3:33 PM
To: 'PGDitter@onyxsp.com'
Cc: LTDunwoody@onyxsp.com; gsnewton@onyxsp.com
Subject: RE: Scanned copy of registration

Phil.

Using your verbal information and the scanned copy of the registration, I discussed the issue with Jack Price in Tallahassee (Head of Hg stuff, rule-writer, etc).

I also discussed with my staff here in Pensacola.
My findings:

- a.. The Department's electronic database of "Florida" facilities (companies) registered as Universal Waste (UW) transporter and Transfer Facilities indicates that "ONYX-Tallahassee" last registered in March of 2000 (valid until March 2001).
- b.. The Department's electronic database LIST of "Florida" facilities (companies) registered as Universal Waste (UW) transporter and Transfer Facilities does not identify the "ONYX-Tallahassee" as registered for anything (only list facilities in Florida, not out-of-state registrations).
- c.. The Department's letter of 03/01/2005 is a registration which indicates ONYX-Flanders, NJ has been registered as a Transporter of UW (this part is OK) and as a Transfer facility for UW Lamps and Devices (this part is NOT OK because it is registering the Flanders NEW JERSEY location by the State of Florida – we can not do that !!). Jack said this is a mistake and should not have been issued, only the Transporter registration should have been indicated. The ONYX-Tallahassee facility needs to register for the Transfer Facility activity occurring at that physical location.
- d.. Both you and I agree that registration in accordance with 737 is required, however both FDEP and ONYX made errors in this process.

Therefore, the alleged violation # 5, Failure to register with the Department as a Transporter/Transfer Facility will be removed from the enforcement actions discussed on Dec 14.

The proposed civil penalty will be adjusted downward (by \$2,475) to reflect its removal. The proposed adjusted civil penalty total now is \$40,950 and Department costs of \$1,500.

As discussed during our meeting on Dec 14, this proposed penalty and costs is dependant on the application of the USEPA's self-policing policy which requires that elements 2 thru 9 of the policy are satisfied. The contamination assessment of the unpermitted storage location for any possible releases of contaminants to the environment is still to be determined. If the assessment (and cleanup if

required) meets the conditions of the self-policing policy then a reduction of the gravity-based civil penalty for alleged violations one thru four would apply.

Jim Byer

NWD HW Section Supervisor

850.595.8360 SC 695.8360

Extension 1253

-----Original Message-----

From: PGDitter@onyxsp.com [mailto:PGDitter@onyxsp.com]

Sent: Wednesday, December 28, 2005 10:22 AM

To: Byer, James

Cc: LTDunwoody@onyxsp.com; gsnewton@onyxsp.com

Subject: Scanned copy of registration

As we discussed this morning attached is a scanned copy of our transporter registration.

Phillip Ditter

Onyx Environmental Services, L.L.C.

EH&S Manager

Phone: 262-243-8908

PENALTY COMPUTATION WORKSHEET

Violator's Name: ONYX Environmental Services, L.L.C.

Waste Management Program: Hazardous Waste Section

Department Staff Responsible for the Penalty Computations: Jim Byer *JB*

Date: December 9, 2005

PART I - Class A Penalty Determination

Violation Type	Potential for Harm	Extent of Dev.	Matrix Amount	Multi- day	Adjust- ments	Total
1. 403.727(1) F.S. 62-737.800(10) F.A.C. HO37-82472-004 General Condition #2	Moderate	Major	\$10,450	\$125,300	\$101,813	\$33,937
Un-permitted Operations - Self-reported						
2. 403.727(1) F.S. HO37-82472-004 Specific Condition Pt I - #2	Moderate	Moderate	\$7,150		\$5,363	\$1,787
Specific Condition Pt V-#3						
Contingency Plan - Self-reported						
3. 403.727(1) F.S. 62-737.800(11) F.A.C. HO37-82472-004 Specific Condition Pt I- #18	Moderate	Major	\$10,450		\$7,837	\$2,613
Operating Records - Self-reported						
4. 403.727(1) F.S. 62-737.860(2) F.A.C. HO37-82472-004 Specific Condition Pt II-#3	Moderate	Major	\$10,450		\$7,837	\$2,613
Maximum Quantity Stored - Self-reported						
5. 62-737.400(3)(a) F.A.C.	Minor	Major	\$2,475			\$2,475
Universal Waste Transporter/Transfer Station Notification						

Total Penalties for all Violations: \$43,425

*SEE
E-MAIL
12-29-05*

Charles F. Goddard
CHARLES F. GODDARD
Program Administrator
Waste Management

Date _____

2,475
40,950
12-29-05

PENALTY COMPUTATION WORKSHEET

PART II – Multi-day Penalties and Adjustments

ADJUSTMENTS

Dollar Amount

Good faith/Lack of good faith prior to discovery: 75 percent of Penalty for Violations 1-4 / (\$122,850)

Justification: ONYX immediately self-reported the un-permitted storage activity to the Department, expeditiously corrected the violations and cooperated in the civil investigation of the issues. Eligibility for penalty mitigation is pursuant to EPA's Policy "Incentives for Self-Policing: Discovery, Disclosure, and Correction and Prevention of Violations" (65 Fed Reg 19617 (4/11/00) and FDEP Directive 922, "Incentives For Self-Evaluation By The Regulated Community", both attached).

Good faith/Lack of good faith after discovery: _____

Justification: _____

History of non-compliance: _____

Justification: _____

Economic benefit of non-compliance: _____

NO ADJUSTMENT

Justification: Economic Benefit calculated is less than \$5,000, in accordance with EPA RCRA Civil Penalty Policy, June 2003. See calculation in justification.

Ability to pay: _____

Justification: _____

Total Adjustments: _____

subtract (\$122,850)

MULTI-DAY PENALTIES

Dollar Amount

Number of days adjustment factor(s) to be applied: _____

179 Days

Total Dollar Amount: _____

\$700 X 179 days = \$125,300

Justification: Un-permitted storage of containers of mercury containing materials in excess of the facility's permitted capacity and in a location not authorized by the operating permit occurred from no later than July 12, 2004. At least forty-five 55-gallon drums of fluorescent powder allegedly processed in the retort from February 2004 to May 2004 were not located in the permitted facility at the time of two compliance inspections, July 12, 2004 and April 26, 2005. All forty-five drums were located within the 400 containers of mercury containing materials associated with the un-permitted storage area (four tractor-trailer vans).

OR

Number of days matrix amount is to be multiplied: _____

Justification: _____

(Inspections, meetings, assessment review)

Total Adjusted Penalty: \$43,425
Department Expenses: \$1,500

\$40,925

PENALTY COMPUTATION WORKSHEET

Part III - Other Adjustments Made After Meeting with the
Responsible Party

ADJUSTMENTS:

Dollar Amount

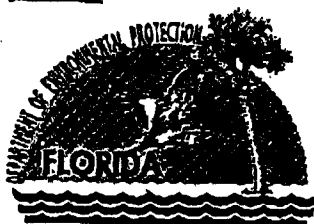
Relative merits of the case:

Resource considerations:

Other justification:

Date

CHARLES F. GODDARD
Program Administrator
Waste Management



Department of Environmental Protection

Jeb Bush
Governor

Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Colleen M. Cardlie
Secretary

03/01/2005

Denise Krous
Onyx Env. Services, L L C
1 Eden Lane
Flanders, NJ 07836-

The Florida Department of Environmental Protection has reviewed your application for registration as a transporter or handler for universal waste lamps and devices destined for recycling. Based on the information received, the facility located at 1 Eden Lane, Flanders, NJ has been registered with the following status:

Facility ID # **NJD080631369**
Transporter of Universal Waste Lamps and Devices
Transfer Facility for Universal Waste Lamps
Transfer Facility for Universal Waste Devices

This registration is valid through **March 1, 2006**. The registration form for the year **2006** registration will be sent to the contact person indicated on your application.

Chapter 62-737, Florida Administrative Code (F.A.C.), (copy enclosed) specifies several other requirements including packaging, training and record keeping for transporters and handlers of and reverse distribution programs for universal waste lamps or devices destined for recycling. These requirements are simple, flexible and make good business and environmental sense (summarized on enclosed fact sheets).

This registration does not allow you to transport or handle universal waste lamps or devices which are destined for landfill or other disposal. The transportation or handling of universal waste lamps or devices destined for disposal is subject to our hazardous waste management regulations under Chapter 62-730, F.A.C.

If any of the information for your facility on the Universal Waste Lamp and Device Transporter and Handler Registration Form changes, please notify me in writing at Mail Stop 4555 at the letterhead address above. For further assistance, please contact me at (850)245-8707 or Internet email at Laurie.Tenace@dep.state.fl.us.

Sincerely,

Laurie Tenace
Environmental Specialist
Hazardous Waste Management Section

Enclosures

"More Protection, Less Process"

Printed on recycled paper.

MERCURY HANDLERS

EPA ID * FL0000207449

Name * SUPERIOR SPECIAL SVCS-TALLAHASSEE

Ph (612)948-0626

REGISTERED

Transporter

Lamps

☒

Devices

☒

Small Quantity Handler

☐☐

Large Quantity Handler

☐☐

Transfer Facility

☐☐

Reverse Distribution

Large

☐

Small

☐

Valid Until 03/01/2001

PERMITTED

Hg Lamps

Reclamation

☒

Recovery

☒

Hg Devices

☒☒

Mercury Powder

☒

Mercury Ampoules

☒

Other Mercury Wastes

☒

Comm Grade Mercury

☒

Valid Until 05/01/2001

Owner Name MARPOH MANAGEMENT, INC.

Contact Address * 401 W 86TH ST

Contact First/Last Name * BRIAN GOLUB

Contact City * BLOOMINGTON

Contact Phone (612)948-0626 Email Addr

Contact State * MN Zip * 55420 2707

Fac Address * 4972 WOODVILLE HWY (C)

Mail Address * 401 W 86TH ST

Fac City * TALLAHASSEE

Mail City * BLOOMINGTON

Fac State * FL Zip * 32311 0

Mail State * MN Zip * 55420 2707

Comments ALSO PERMITTED MERCURY STORAGE, RECOVERY AND RECLAMATION FACILIT