

**Terminal Service Company
Division of McKenzie Tank Lines
Penalty Justification & Computation**

**Based upon Guidelines for Characterizing RCRA Violations (January 1999) and
Guidelines for Characterizing Used Oil Violations (1/24/2006)**

1. CFR 261.5(g)(1) & 40 CFR 262.11 Hazardous Waste Determination (3.1)

Terminal Services Company (TSC) failed to make a hazardous waste determination on numerous containers that did not have labels during this inspection. These containers include: four 55-gallon drums that were labeled "Non Hazardous Waste" at the Interior/Exterior Washing Facility; two 55-gallon drums of unknown wastes located behind the Interior/Exterior Washing Facility; approximately 70 containers of various sizes (55-gallon, 30-gallon and 5-gallon drums/buckets) at the Adjacent Areas near the Interior/Exterior Washing Facility; the numerous 55-gallon drums located north of the Diesel Tank Fueling Station; and one 5-gallon bucket of waste paint related material in the Paint Booth.

(a) Potential for Harm Moderate

The RCRA ranking system in the Guidelines for Characterizing RCRA Violations (January 1999) for determining the potential for harm requires consideration of the following three categories: (1) nature of the waste, (2) volume of the waste, and (3) location of receptors of the waste.

- (1) The nature of the hazardous waste in question is a Category 2 waste and is assigned a score of "4".
- (2) The volume of waste involved in the violation is more than twenty-five 55-gallon drums. A score of "8" is the appropriate assignment.
- (3) In regards to location of receptors of the waste, a score of "4" is assigned since the violation was an actual discharge from the containers. A score of "2" is assigned (potential exposure to people) with between 10 and 100 people were potentially exposed.

| <u>Category</u> | <u>Score</u> |
|--|--------------|
| Nature of Waste | 4 |
| Volume of Waste | 8 |
| Location of receptor: | |
| a. Discharge to environment | 4 |
| <u>b. Potential exposure to people</u> | <u>2</u> |
| Total | <u>18</u> |

When using the Guidelines for Characterizing RCRA Violations (January 1999), a moderate "Potential for Harm" designation is assigned to a total score of 13 to 18.

(b) Extent of Deviation Moderate

In accordance with Guidelines for Characterizing RCRA Violations (January 1999), the Extent of Deviation for failing to make a Hazardous Waste determination when the facilities hazardous waste streams for which a waste determination has not been conducted is 25% to 75% is moderate.

2.) 40 CFR 261.5(g)(3) CESQG Improper Hazardous Waste Disposal (17.3)

TSC allowed some waste gas and waste diesel drums to be discharged onto the ground in areas adjacent to the Interior/Exterior Washing Facility and the Diesel Tank Fueling Station. Additionally, one 5-gallon bucket of paint waste located in the paint booth was not closed and it appeared that the contents had been evaporating.

(a) Potential for Harm Minor

In accordance with Guidelines for Characterizing RCRA Violations (January 1999), the Potential for Harm for a Conditionally Exempt Small Quantity Generator failing to ensure proper disposal is minor.

(b) Extent of Deviation Major

In accordance with Guidelines for Characterizing RCRA Violations (January 1999), the Extent of Deviation for a Conditionally Exempt Small Quantity Generator failing to ensure proper disposal is major.

3) 40 CFR 279.22(c)(1) & 62.710.401(6) F.A.C. General Storage Reqmts for Used Oil (28.1)

TSC failed to label numerous used oil drums with the words "Used Oil". Numerous containers (greater than fifteen 55-gallon drums) located outside in areas adjacent to the Interior/Exterior Washing Facility and north of the Diesel Tank Fueling Station were not labeled and many drums open and/or had leaked their content onto the ground. There was no secondary containment provided for any of the drums or tanks located outside throughout the facility. There were many 5-gallon buckets that contained both water and used oil that was not labeled, closed or in secondary containment that were located throughout the facility.

(a) Potential for Harm Major

TSC had several 55-gallon drums of waste oils, wheel oils/grease, tanks and 5-gallon buckets of used oil that were not labeled. In addition TSC failed to install secondary containment for numerous containers located outside at the facility. In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Potential for Harm for these containers with an actual discharge of used oil is Major.

(b) Extent of Deviation Major

TSC failed to ensure that its Used Oil & Used Oil Filters were properly managed. In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Extent of Deviation for greater than ten 55-gallon drums without labeling and secondary containment is Major.

4.) 40 CFR 279.22(d) Failure to Respond To Used Oil Release (27.1)

TSC failed to ensure that its containers that were stored outside were in good condition, closed and the drums contents were not being discharged to the environment. There were several used oil containers that were discharging their content during this inspection in areas adjacent to the Interior/Exterior Washing Facility and the Diesel Tank Fueling Station. There were several visual stains where discharges had apparently occurred in the past.

(a) Potential for Harm Moderate

In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Potential for Harm for not responding to a spill between 25 but less than 550 gallons of used oil is Moderate.

(b) Extent of Deviation Major

TSC failed to ensure that its Used Oil & waste petroleum were properly managed. By not responding to the discharges immediately, there is a potential for groundwater to be impacted. In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Extent of Deviation for not responding to a spill between 25 but less than 550 gallons of used oil is Major.

5.) 62-710.850(5)(a) F.A.C General Req's for the Storage of Used Oil Filters/Drums (26.2)

TSC failed to ensure that all its containers of used oil filters were labeled, closed, in good condition and stored on impermeable surface TSC's oil filter drum was not labeled.

(a) Potential for Harm Minor

In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Potential for Harm for not complying with the General Requirements for the storage of used oil filters with no potential for discharge is Minor.

(b) Extent of Deviation Minor

In accordance with the Guidelines for Characterizing Used Oil Violations (1/24/2006), the Potential for Harm for not complying with the General Requirements for the storage of used oil filters less than three drums is Minor.

**6.) 40 CFR 273.13(d) General Storage Requirements for Universal Waste Lamps and
40 CFR 273.14 & 273.15(c) Labeling/Dating Requirements for Universal Waste Lamps**

Located in the corner of the electrical shop were approximately nine (9) spent fluorescent bulbs which were not containerized, labeled or dated.

(a) Potential for Harm Minor

The RCRA ranking system in the Guidelines for Characterizing RCRA Violations (January 1999) for determining the potential for harm requires consideration of the following three categories: (1) nature of the waste, (2) volume of the waste, and (3) location of receptors of the waste.

- (1) The nature of the hazardous waste in question is a Category 2 waste and is assigned a score of "4".
- (2) The volume of waste involved in the violation is less than six 55-gallon drums. A score of "2" is the appropriate assignment.
- (3) In regards to location of receptors of the waste, a score of "4" is assigned since the violation was a potential for discharge. A score of "2" is assigned (potential exposure to people) with between 10 and 100 people were potentially exposed.

| <u>Category</u> | <u>Score</u> |
|--|--------------|
| Nature of Waste | 4 |
| Volume of Waste | 2 |
| Location of receptor: | |
| a. Discharge to environment | 4 |
| <u>b. Potential exposure to people</u> | <u>2</u> |
| Total | <u>12</u> |

When using the Guidelines for Characterizing RCRA Violations (January 1999), a **minor** "Potential for Harm" designation is assigned to a total score of 8 to 12.

(b) Extent of Deviation

Minor

In accordance with Guidelines for Characterizing RCRA Violations (January 1999), the Extent of Deviation for failure to containerize, label or date waste fluorescent bulbs is **minor**.

****RCRA PENALTY POLICY APPLIED for March 2007.**

PENALTY COMPUTATION WORKSHEET

Violator's Name: Terminal Service Company, A Division of McKenzie Tank Lines

Waste Management Program: Hazardous Waste Section

Department Staff Responsible for the Penalty Computations: Terry Wells 

Date: April 7, 2007

PART I - Class A Penalty Determination

| <u>Violation Type</u> | <u>Potential for Harm</u> | <u>Extent of Dev.</u> | <u>Matrix Amount</u> | <u>Multi-day</u> | <u>Adjustments</u> | <u>Total</u> |
|--|---------------------------|-----------------------|----------------------|------------------|--------------------|-----------------|
| 1. <u>40 CFR 262.11 Hazardous Waste Determination</u> | <u>Moderate</u> | <u>Moderate</u> | <u>\$8,400</u> | <u> </u> | <u> </u> | <u>\$8,400</u> |
| 2. <u>40 CFR 261.5(g)(3) CESQG failure to ensure proper disposal</u> | <u>Minor</u> | <u>Major</u> | <u>\$2,900</u> | <u> </u> | <u> </u> | <u>\$2,900</u> |
| 3. <u>62.710.401(6) F.A.C. General Requirements for Used Oil</u> | <u>Major</u> | <u>Major</u> | <u>\$9,000</u> | <u> </u> | <u> </u> | <u>\$9,000</u> |
| 4. <u>40 CFR 279.22 (d) Response to Release</u> | <u>Moderate</u> | <u>Major</u> | <u>\$3,900</u> | <u> </u> | <u> </u> | <u>\$3,900</u> |
| 5. <u>62-710.850(5)(a) F.A.C. General Requirements for Used Oil Filters</u> | <u>Minor</u> | <u>Minor</u> | <u>\$500</u> | <u> </u> | <u> </u> | <u>\$500</u> |
| 6. <u>40CFR273.13(d) & 40CFR273.14/273.15(c) General Requirements for Universal Waste Lamp Storage</u> | <u>Minor</u> | <u>Minor</u> | <u>\$2,900</u> | <u> </u> | <u> </u> | <u>\$600</u> |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| Total Penalties for all Violations: | | | | | | <u>\$25,300</u> |



Michael S. Kennedy, P.G.
Program Administrator
Waste Management Program

Date June 29, 2007

PENALTY COMPUTATION WORKSHEET
PART II - Multi-day Penalties and Adjustments

ADJUSTMENTS

Dollar Amount

Good faith/Lack of good faith prior to discovery: _____
Justification: _____

Good faith/Lack of good faith after discovery: _____
Justification: _____

History of non-compliance: _____
Justification: _____

Economic benefit of non-compliance: No adjustment
Justification: The avoided costs for failure to conduct HW determination; and delayed costs for disposal of CESQG wastes and proper response to used oil release combined is less than \$3,000.

Ability to pay: _____
Justification: _____

Total Adjustments: _____

MULTI-DAY PENALTIES

Dollar Amount

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

Total Dollar Amount: _____
Justification: _____

OR

Number of days matrix amount is to be multiplied: _____
Justification: _____

Total Adjusted Penalty: \$25,300
Department Expenses: \$3,000

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:

Richard Fancher
District Director

Date