



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

SENT VIA ELECTRONIC MAIL
bart419@msn.com

Bart Phillips
President
419 Metal & Auto Recycling Center Inc
600 Old Sanford Oviedo Road
Winter Springs, Florida 32708

WARNING LETTER
OWL-HW-E-09-016

Seminole County – HW
419 Metal & Auto Recycling Center Inc
FAC ID # FLR000026625

Dear Mr. Phillips:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A hazardous waste compliance inspection was performed at your facility located at 600 Old Sanford Oviedo Road, Winter Springs, FL on March 3, 2009. The inspection was conducted under the authority of Section 403.091, Florida Statutes (F.S.), and Chapter 403, Part IV, Florida Statutes, and is designed to determine the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code Chapter 62-730 and 40 CFR 279, adopted in Florida Administrative Code (F.A.C.) Chapter 62-710.

During the inspection, Department personnel observed possible violations of Florida Statutes and Rules regarding solid and hazardous waste. These violations are set forth in the attached inspection report including pictures.


The activities observed during the Department's field inspection and any activities at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately.

The Department has calculated penalties for the violations addressed above. The penalty work sheet is enclosed. The penalty amount was calculated in accordance with Section 403.121, Florida Statutes, the U.S. EPA RCRA Civil Penalty Policy dated June 2003 as amended January 11, 2005, DEP Directive 923 dated July 2007 and the Department's Guidelines for Characterizing RCRA Violations dated May 2008. A copy of the documents is available upon request.

Please contact Michael Eckoff, Hazardous Waste Section, by telephone at (407) 893-3323 or by e-mail at michael.eckoff@dep.state.fl.us within 10 days of receipt of this letter to schedule an informal conference concerning resolution of this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred and whether any penalties are appropriate. You may bring anyone with you to the meeting that you feel could help resolve this matter.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,


FOR Vivian F. Garfein
Director, Central District

6/23/09
Date

VFG/lb/me

Attachments: Inspection Report
Penalty Calculation

cc: Debby Valin, FDEP P2 Program
Jessica Kleinfelter, FDEP NPDES Stormwater Section,
jessica.kleinfelter@dep.state.fl.us
Tom Waters, Seminole County Environmental Services,
twaters@seminolecountyfl.gov



**Florida Department of
Environmental Protection
Hazardous Waste Inspection Report**

FACILITY INFORMATION:

Facility Name: 419 Metal & Auto Recycling Center Inc
On-Site Inspection Start Date: 03/03/2009 **On-Site Inspection End Date:** 03/03/2009
ME ID#: 18948 **EPA ID#:** FLR000026625
Facility Street Address: 600 Old Sanford Oviedo Rd, Winter Spgs, Florida 32708-2646
Contact Mailing Address: 600 Old Sanford Oviedo Rd, Winter Springs, Florida 32708-2646
County Name: Seminole **Contact Phone:**

NOTIFIED AS:

N/A

INSPECTION TYPE:

Complaint Inspection for CESQG (<100 kg/month) facility

INSPECTION PARTICIPANTS:

Principal Inspector: Michael Eckoff, Environmental Specialist
Other Participants: Danielle Bentzen, Environmental Specialist; Bart Phillips, President; Lu Burson, Environmental Manager

LATITUDE / LONGITUDE: Lat 28° 42' 24.8102" / Long 81° 17' 45.9262"

SIC CODE: 5015 - Wholesale trade - motor vehicle parts, used

TYPE OF OWNERSHIP: Private

Introduction:

On March 3, 2009 Michael Eckoff, Danielle Bentzen, and Lu Burson, Florida Department of Environmental Protection (FDEP), accompanied by Bart Phillips, 419 Metal & Auto Recycling Center Inc (419), inspected 419 in response to a complaint alleging improper waste disposal. The complainant alleges the facility is improperly storing large computer servers and allowing releases of used oil to the ground and not cleaning up the releases.

The facility consists of 6 acres on the North side of Old Sanford Oviedo Road and 4 acres on the South side (formerly Fuses Auto Salvage). Mr. Phillips also owns the adjacent 7 acres that contains a wetland area. The facility has a septic system for disposal of domestic wastewater and an on-site well for potable water. The facility has 32 employees and operates 6 days/week, Monday to Friday, 8 AM to 6 PM, and Saturday, 9 AM to 6 PM. The facility has been at this location since 1993.

INSPECTION HISTORY

419 was inspected by the Department's Hazardous Waste Program on December 21, 2004 and January 25, 2005 and was not in compliance due to failure to properly label containers storing used oil, disposing solid waste within 200 feet of a natural or artificial water body without a permit, failure to obtain a Multi-Sector Generic Permit (MSGP), failure to document proper disposal of waste tires, failure to conduct a proper waste determination, failure to respond to used oil releases. Consent Order OGC File No. 05-0188 was executed assessing \$8,000 in Department costs and penalties.

Process Description:

419 had a roll off dumpster for electronics next to the office (Figure 1). According to Mr. Phillips, they will remove chips from the circuit boards in order to reclaim the precious metals, which will be sold to an electronics recycler. The remaining parts will be shredded. The facility has been

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accepting electronic waste for approximately four months but has not started removing chips. The facility must contact the FDEP Recycling Program in Tallahassee at (850)245-8706 for requirements of the electronics recycling program.

Autos are processed on the North side of the facility. Cars are purchased from individuals and at auction. 419 has an auto crusher on site (Figure 3).

The auto dismantling area showed several locations where automotive fluids had been released to the ground and the housekeeping in the area was very poor (Figures 4 to 7). There was a truck near the entrance to the area with a puddle of antifreeze next to and running from the truck (Figure 2). Two vehicles were situated on racks over open top totes (~200 gallon) (Figures 8 and 9). The totes were supposed to capture any automotive fluids being drained from the vehicles but there were significant areas of spillage around the totes. The totes were labeled with the words "Used Oil" but were OPEN AND NOT LOCATED INSIDE SECONDARY CONTAINMENT [62-710.401(6), Florida Administrative Code (F.A.C.)]. Each was ~1/3 full. There was also a 5-gallon pail situated underneath one of the vehicles in an attempt to capture gasoline (Figure 12). Even though the totes were situated underneath the roof of the structure they WERE NOT BEING MANAGED IN A MANNER THAT WOULD KEEP THEM FROM BEING IMPACTED BY RAIN DURING A STORM EVENT. There were also several full drums of petroleum contaminated soil (Figure 14). There was a 5-gallon pail of used oil that was OPEN AND NOT LABELED "USED OIL" [62-710.401(6), F.A.C.] (Figure 29).

According to Mr. Phillips, his employees clean the dismantling area every day before they go home at 6:00 p.m. and all used oil is pumped into the used oil storage tank. The amount of releases noted as well as the volume of used oil located in the totes did not support the claim that the area is cleaned daily. Mr. Phillips was told that he needs to work on housekeeping in the area and would have to clean up the areas of petroleum releases. He was further instructed that the used oil tote would need to be kept closed.

Next to the dismantling area was a structure for waste and product tanks. The structure consisted of a concrete block secondary containment and a "pole barn" type roof. Inside the containment were four tanks for used oil, one tank for used antifreeze, and one tank for waste fuels (Figures 10 and 11). THE SECONDARY CONTAINMENT WAS CONSTRUCTED OF CONCRETE BLOCKS THAT WAS NOT SEALED AT THE JOINTS [62-710.401(6), F.A.C.).

Tires that have a resale value are pulled off the vehicles and sent to a tire wholesaler. All other tires are left on the car and are crushed with the vehicle.

CORE PARTS ARE STORED DIRECTLY ON GROUND SURFACES AND PETROLEUM RELEASES WERE NOTED IN THE AREA [40 CFR 279.22(d)] (Figures 15 to 19). Mr. Phillips was instructed that core parts and any fluid containing parts had to be stored under cover and on an impermeable surface as part of the facility's Stormwater Pollution Prevention Plan (SWPPP).

419 DOES NOT RECOVER MERCURY SWITCHES AND DOES NOT PARTICIPATE IN THE END OF LIFE VEHICLE SOLUTIONS (ELVS) PROGRAM [40 CFR 262.11]. Information on the program was provided at the time of the inspection.

Also located on the North side of the facility was an area for collecting and bailing aluminum and a trailer for waste batteries. Waste batteries are stored outside during the day throughout the facility and brought to the storage trailer every night (Figures 13, 20, and 21). Batteries that do not have a resale value are palletized and shrink wrapped and sent to US Lead for recycling (Figure 22). Outside in a storage area were three pallets of waste batteries that were shrink wrapped and covered with a piece of cardboard and three open 55-gallon drums of waste batteries (Figures 23 and 24).

The property across the street is used mainly for processing non-ferrous metals (tin primarily) and for storage. Materials are bailed and loaded onto rail cars that run along the property boundary (Figure 25). Three additional roll offs containing electronics were waiting to be processed (Figure 26). There was a roll off located next to the rail line destined for GEL Recycling that contained

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concrete blocks. Several cans of paint were noted in the roll off and Mr. Phillips was instructed to have someone remove the paint (Figures 27 and 28).

RECORDS REVIEW

The manifest dated 11/12/2008 was reviewed and found to be in compliance.

FCC Environmental picks up used oil and used antifreeze.

Empire Tire picks up good tires and shreds bad tires.

NPDES Stormwater permit:

419 was issued a MSGP for stormwater discharges associated with industrial activities on 4/24/2005, permit number FLR05G002, expiration 4/23/2010. A review of the facility's SWPPP required under the permit noted the following deficiencies:

Core parts and fluid containing parts are not stored under cover or on an impermeable surface.

The site map needs to be updated to reflect the addition of the 4 acres across the street.

The last Quarterly Visual stormwater Inspection noted was 4/2/07 and stated 'no discharge'.

The last Quarterly Facility Inspection noted was 4/2/07.

There was no documentation of -

Annual training

Annual Comprehensive permit review

Discharge Monitoring Reports (DMR) submitted for years 2 and 4.

Mr. Phillips was instructed that he needed to get his permit requirements up to date; perform quarterly visual stormwater inspections during qualifying rain events, quarterly facility inspections, annual employee permit training, annual comprehensive review of the SWPPP, and maintain documentation of stormwater sampling for year 2 (2006) and 4 (2008) of his permit - if these were actually completed [403.161(1)(b), Florida Statutes (F.S.)].

New Potential Violations and Areas of Concern:

Checklist Independent Potential Violations and Areas of Concern

Type: Violation

Rule: 262.11

Explanation: 419 did not have a program to check vehicles for mercury switches and remove the switches prior to crushing. Therefore, 419 was not performing a valid waste determination on each vehicle.

Corrective Action: 419 must remove mercury switches from vehicles prior to crushing. The switches should be removed from the vehicle as soon as possible, stored in a leak-proof, labeled, and closed container, and managed as hazardous waste. Provide documentation of removal of mercury switches from vehicles prior to crushing to the Department within 30 days of your receipt of this Warning Letter.

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Type: Violation
Rule: 279.22(d)
Explanation: 419 failed to clean up numerous used oil releases at the vehicle processing area.
Corrective Action: 419 must conduct a site screening as outlined in the attachment titled Site Screening Plan. Provide documentation of facility operational changes addressing minimization of releases and immediate response to releases to the Department within 30 days of your receipt of this Warning Letter.

This violation was cited in Consent Order #05-0188.

Type: Violation
Rule: 62-710.401(6)
Explanation: 419 failed to keep closed and provide secondary containment for totes storing used oil and keep closed and label "Used Oil" a 5-gallon pail storing used oil. In addition, the secondary containment for the used oil tanks was not sufficient. The secondary containment must be constructed to contain any leaks from the used oil tanks.
Corrective Action: Provide documentation of closed and labeled containers and secondary containment for containers and tanks storing used oil to the Department within 30 days of your receipt of this Warning Letter.

Type: Violation
Rule: 403.161(1)(b)
Explanation: 419 failed to comply with the MSGP issued to its facility.
Corrective Action: 419 must comply with all requirements of the MSGP issued to its facility. Provide documentation of core parts and fluid containing parts being stored under cover and on an impermeable surface, updated site map to include the 4 acres across the street, current Quarterly Visual Stormwater Inspection, current Quarterly Facility Inspection, documentation of annual training, annual comprehensive permit review, and DMR for years 2 and 4 to the Department within 30 days of your receipt of this Warning Letter.

Summary of Potential Violations and Areas of Concern:

Potential Violations

Rule Number	Area	Date Cited	Explanation
Checklist Independent Violations			
262.11		03/03/2009	419 did not have a program to check vehicles for mercury switches and remove the switches prior to crushing. Therefore, 419 was not performing a valid waste determination on each vehicle.

Inspection Date: 03/03/2009

Rule Number	Area	Date Cited	Explanation
279.22(d)		03/03/2009	419 failed to clean up numerous used oil releases at the vehicle processing area.
62-710.401(6)		03/03/2009	419 failed to keep closed and provide secondary containment for totes storing used oil and keep closed and label "Used Oil" a 5-gallon pail storing used oil. In addition, the secondary containment for the used oil tanks was not sufficient. The secondary containment must be constructed to contain any leaks from the used oil tanks.
403.161(1)(b)		03/03/2009	419 failed to comply with the MSGP issued to its facility.

Areas of Concern

No Areas of Concern

ATTACHMENTS:

Figure 1 - Waste electronics



Figure 2 - Antifreeze release



Figure 3 - Auto crusher



Figure 4 - Auto fluids release



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Figure 5 - Auto fluids release



Figure 6 - Auto fluids release



Figure 7 - Auto fluids release



Figure 8 - Used oil tote



Figure 9 - Used oil tote



Figure 10 - Storage tanks



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Figure 11 - Storage tanks



Figure 12 - Pail for waste gas



Figure 13 - Used batteries



Figure 14-Petroleum impacted soil



Figure 15 - Petroleum release



Figure 16-Engine cores on ground



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Figure 17-Engine cores on ground



Figure 18-Engine core on ground



Figure 19 - Petroleum release



Figure 20 - Used batteries



Figure 21 - Used batteries



Figure 22-Pallets used batteries



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Figure 23-Pallets used batteries



Figure 24 - Drums used batteries



Figure 25-Scrap metal bailer



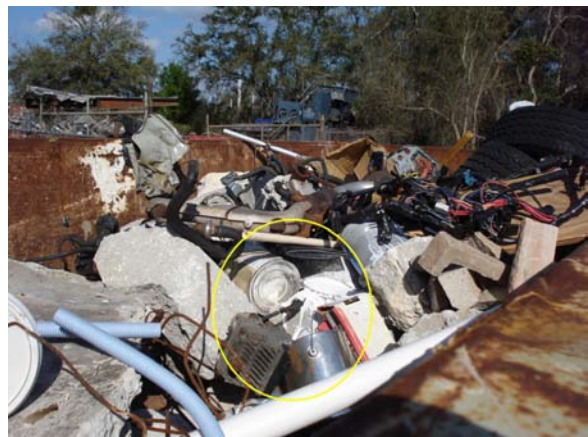
Figure 26 - Waste electronics



Figure 27 - Waste paint cans



Figure 28 - Waste paint cans



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Figure 29 - Used oil container



Conclusion:

419 is a Conditionally Exempt Small Quantity Generator (CESQG) of hazardous waste, a generator of used oil, and a small quantity handler of universal waste and was not in compliance at the time of the inspection.

The complainant allegations were confirmed regarding used oil releases to the ground.

Provide documentation of contact with the FDEP Recycling Program in Tallahassee to the Department within 30 days of your receipt of this Warning Letter.

Please submit copies of manifests from 2006 and 2007 to the Department within 30 days of your receipt of this Warning Letter.

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Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62-740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Michael Eckoff

PRINCIPAL INSPECTOR NAME

Environmental Specialist

PRINCIPAL INSPECTOR TITLE*Michael J. Eckoff***PRINCIPAL INSPECTOR SIGNATURE**

FDEP - Central District

ORGANIZATION

6/23/2009

DATE

Danielle Bentzen

INSPECTOR NAME

Environmental Specialist

INSPECTOR TITLE

NO SIGNATURE

INSPECTOR SIGNATURE

FDEP - Central District

ORGANIZATION

Lu Burson

INSPECTOR NAME

Environmental Manager

INSPECTOR TITLE

NO SIGNATURE

INSPECTOR SIGNATURE

FDEP - Central District

ORGANIZATION

Bart Phillips

REPRESENTATIVE NAME

President

REPRESENTATIVE TITLE

NO SIGNATURE

REPRESENTATIVE SIGNATURE

419 Metal & Auto Recycling Center Inc

ORGANIZATION

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.

INITIAL SITE SCREENING

The purpose of the Initial Site Screening is to locate and sample areas of potential soil contamination to determine whether a discharge of hazardous waste or used oil has occurred. If test results indicate further site examination is warranted, you may be required to conduct additional sampling, including groundwater.

Within 30 days of receipt of this letter, please provide the Florida Department of Environmental Protection (Department) with a Site Screening Plan (SSP) for review. The SSP should describe following:

1. A site diagram showing all areas of potential contamination and corresponding sampling locations.

These locations should include, but not be limited to, all locations where a discharge is suspected or known to have occurred.

[If the site is an auto salvage yard or other automotive shop use the following:

These locations should include, but not be limited to, all locations where auto repair or dismantling is being or has been conducted, all locations where core parts are or have been stored, used oil, spent antifreeze, waste gasoline or waste battery storage areas, and any other location where a discharge of hazardous waste, gasoline, used oil or other automotive fluid is suspected or known to have occurred.]

2. Detail the sampling methods that address the contaminants of concern. The sampling methods must conform to the Department's Bureau of Laboratories Standard Operating Procedures (SOP), which may be accessed at, <http://www.dep.state.fl.us/labs/sop/index.htm>.

Please confer with your consultant and analytical laboratory **prior to sampling** to determine if the analytical method that you plan to use is capable of achieving detection limits that are **at or below** Residential Direct Exposure or Leachability Soil Cleanup Target Levels (SCTLs) unless contaminant concentrations or matrix interference require dilution which will raise the detection limits.

If, after conferring, you find that the analytical method that you plan to use is **not** capable of achieving detection limits that are at or below these levels, then an alternate method that can achieve the appropriate detection limits **must** be used. However, an analytical method with a Method Detection Limit (MDL) above a specific Residential or Leachability SCTL may be used if it uses the most sensitive and currently available technology. By reporting conventions and Chapter 62-160, FAC, you must report any non-detectable analyte to the MDL. Please refer to the MDL and Practical Quantitation Limit (PQL) values shown on the proposed 62-777 MDL-PQL tables, located on DEP's web site at <http://www.dep.state.fl.us/labs/mdlpqltables.htm> for generally acceptable limits that should be achievable by most modern well-equipped environmental laboratories. A value that is identified between the MDL and the value at which the laboratory has 99 percent confidence that the quantitative value determined is accurate (the PQL) must be reported as the value with a "I" qualifier.

For further guidance refer to the downloadable Adobe® Acrobat® document “Guidance on Analytical Sensitivity and the Interpretation of Method Detection Limits and Practical Quantitation Limits” located at the bottom of the above-referenced web page.

Within 30 days of receipt of the Department’s written approval of the SSP, the facility shall initiate the sampling described above.

Notify the Department at least 10 days before sampling in order to allow Department personnel to observe the sampling process and/or take split samples. When the Department chooses to split samples, the raw data shall be exchanged between the Department and the facility as soon it is available.

Within 30 days of completion of the sampling described in the SSP, submit a Site Screening Report to the Department containing the sampling results including quality control data, as well as all applicable site maps and surveys.

The sampling professional shall document that all field sampling activities were conducted in compliance with the Department’s SOP for Field Activities, incorporated by reference in 62-160.800, Florida Administrative Code.

Following Department Review of the Site Screening Report:

1. If the Site Screening Report is inconclusive concerning the presence of contamination additional screening samples may be required.
2. If the Site Screening Report does not reveal the presence of contamination in the soil, sediment, surface and/or ground water in violation of the Department's water quality standards or minimum criteria, or does not reveal the presence of contaminants which may reasonably be expected to cause pollution of the surface and/or ground water of the state in excess of such standards or criteria, the Responsible Party will not be required to conduct any further site screening.
3. In the event the Site Screening Report reveals the presence of contamination in the soil, sediment, surface and/or ground water in violation of the Department's water quality standards or minimum criteria, or reveals the presence of contaminants which may reasonably be expected to cause pollution of the surface and/or ground water of the state in excess of such standards or criteria, Respondent shall implement the corrective actions in the manner and within the time frames stated in Chapters 62-770 and/or 62-780, F.A.C.

PENALTY COMPUTATION WORKSHEET

Violator's Name: 419 Metal & Auto Recycling Center Inc

Identify Violator's Facility: 600 Old Sanford Oviedo Rd Winter Springs FL 32708 – No EPA ID

Name of Staff Responsible for the Penalty Computations: Michael Eckoff Date: 5/28/2009

Violation Type		Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Other Adjustments History of Non-Compliance	Total
a.	40 CFR 262.11 Waste Determination	HW 5/2008	Moderate	Major	\$10,316 - \$14,184		\$14,184
b.	40 CFR 279.22(d) Used Oil Releases	UO 5/2008	Moderate	Major	\$3,200 - \$4,599	10% \$459	\$5,058
c.	62-710.401(6), F.A.C. Open UO Container With No Secondary Containment	UO 5/2008	Moderate	Major	\$3,200 - \$4,599		\$4,599
d.	403.161(1)(b), F.S. Failure To Comply With Permit	NPDES SW 7/2003	Moderate	Moderate	\$2,000 - \$3,199		\$3,199

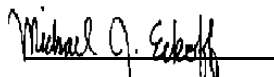
TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:

\$27,040.00

There was no reasonable method for determining multi-day and Economic Benefit adjustments, therefore, they were not calculated at this time.

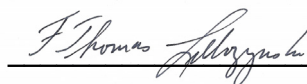
The facility was assessed History of Non-Compliance adjustments due to used oil releases noted in the previous Consent Order #05-0188.

Prepared by:



Michael Eckoff
Environmental Specialist

Date: 5/28/2009



FOR Vivian F. Garfein
Director, Central District

Date: 6/23/2009

WORKSHEET
 RANKING SYSTEM FOR POTENTIAL FOR HARM

FACILITY NAME: 419 Metal & Auto Recycling Center Inc Date: 5/28/2009

EPA ID No.: No EPA ID Number

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
a.	262.11	Waste Determination	4	2	4	4	14

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	4 - Release	4 - > 1,000
	5 - 1,000 to 5,000 kg	4 - High potential for release	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 1,000 kg (5 drums)		2 - 10 - 100
		1 - No release	1 - <10

MAJOR POTENTIAL FOR HARM: 19-24

MODERATE POTENTIAL FOR HARM: 13-18

MINOR POTENTIAL FOR HARM: 8-12

ONLY VIOLATIONS IN WHICH A "POTENTIAL FOR HARM" SCORE IS REQUIRED ARE LISTED ON THIS PAGE.