



Florida Department of Environmental Protection

Southeast District Office
400 North Congress Avenue, Suite 200
West Palm Beach, Florida 33401-2913

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

SEP 24 2009

CERTIFIED MAIL # 7008 1140 0004 4744 0778
RETURN RECEIPT REQUESTED

John Coyne, Environmental Health & Safety Director
Hydrocarbon Recovery Services, Inc.
d/b/a FCC Environmental
523 North Sam Houston Pkwy., Ste 400
Houston, TX 77060

SUBJECT: Proposed Settlement in the case of the Department of Environmental Protection
vs. FCC Environmental, 1280 NE 48th St., Pompano Beach, FL 33064
OGC File No.: 09-3504

Dear Mr. Coyne:

The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter dated July 1, 2009, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of the rules and statutes cited in the attached Warning Letter. In order to resolve the matters identified in the attached Warning Letter, you are assessed civil penalties in the amount of \$11,474.00, along with \$500.00 to reimburse the Department costs, for a total of \$11,974.00. The civil penalty in this case includes three violations of \$2,000.00 or more.

The Department acknowledges that the payment of these civil penalties by you does not constitute an admission of liability. This payment must be made payable to the Department of Environmental Protection by cashier's check or money order and shall include the OGC File Number assigned above and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, 400 N. Congress Ave., Ste 200, West Palm Beach, FL, 33401, within 30 days of your signing this letter.

Your signing this letter constitutes your acceptance of the Department's offer to resolve this matter on these terms. If you elect to sign this letter, please return it to the Department at the address indicated above. The Department will then countersign the letter and file it with the Clerk of the Department. When the signed letter is filed with the Clerk, the letter shall constitute final agency action of the Department which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes.

If you do not sign and return this letter to the Department at the District address within 20 days of the mailing date, the Department will assume that you are not interested in settling this

NOTICE OF RIGHTS

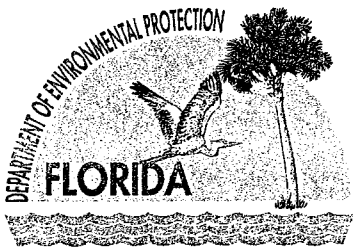
Persons who are not parties to this Consent Order but whose substantial interests are affected by this Consent Order have a right, pursuant to Sections 120.569 and 120.57, Florida Statutes, to petition for an administrative hearing on it. The Petition must contain the information set forth below and must be filed (received) at the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000, within 21 days of receipt of this notice. A copy of the Petition must also be mailed at the time of filing to the District Office named above at the address indicated. Failure to file a petition within the 21 days constitutes a waiver of any right such person has to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes.

The petition shall contain the following information:

(a) The Department's Consent Order identification number and the county in which the subject matter or activity is located; (b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding; (c) An explanation of how the petitioner's substantial interests will be affected by the Consent Order; (d) A statement of when and how the petitioner received notice of the Consent Order; (e) A statement of all material facts disputed by petitioner, if any; (f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order; (g) A statement of which rules or statutes the petitioner contends require reversal or modification of the Consent Order; and (h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the Consent Order.

If a petition is filed, the administrative hearing process is designed to formulate agency action. Accordingly, the Department's final action may be different from the position taken by it in this Notice. Persons whose substantial interests will be affected by any decision of the Department with regard to the subject Consent Order have the right to petition to become a party to the proceeding. The petition must conform to the requirements specified above and be filed (received) within 21 days of receipt of this notice in the Office of General Counsel at the above address of the Department. Failure to petition within the allowed time frame constitutes a waiver of any right such person has to request a hearing under Sections 120.569 and 120.57, Florida Statutes, and to participate as a party to this proceeding. Any subsequent intervention will only be at the approval of the presiding officer upon motion filed pursuant to Rule 28-106.205, Florida Administrative Code.

Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.



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JUL 1 - 2009

CERTIFIED MAIL# 7008114000044744 0730
RETURN RECEIPT REQUESTED

Aurelio Blasco, President
Hydrocarbon Recovery Services, Inc. dba FCC Environmental
14950 Heathrow Forest Pkwy.
Houston, TX 77032

Subject: Warning Letter # 09-0056HW06SED
Hazardous Waste Compliance Evaluation Inspection at FCC Environmental,
1280 NE 48th St., Pompano Beach, FL 33064, EPA ID # FLD984262410

Dear Mr. Blasco:

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 evaluation inspection conducted on October 13, 2008, at your permitted used oil processing facility, indicates that a violation of Florida Statutes and Rules may exist at the above described facility. Department of Environmental Protection ("Department") personnel observed possible violations regarding hazardous waste management. The observations of the Department are in the attached inspection report.

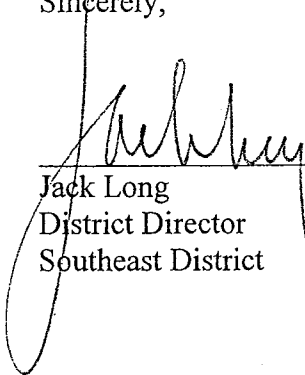
Section 403, Florida Statutes, provides that facilities must comply with Title 40 Code of Federal Regulations (CFR), Parts 260 to 268 and 279 as adopted in Chapter 62-730, Florida Administrative Code (F.A.C.) and Chapter 62-710, F.A.C. The activities observed during the Department's field inspection and any other activities at your facility that may be contributing to violations of the above-described statutes or rules should be ceased. The operation of a facility in violation of state statutes or rules may result in liability for damages and restoration, and the judicial imposition of penalties up to \$50,000.00 per violation per day pursuant to Section 403.727, Florida Statutes.

You are requested to contact Ms. Kathy Winston at the address above or 561/681-6756 within fifteen (15) days of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred. You may bring anyone with you to the meeting that you feel could help resolve this matter. However, we must be given the names and positions of any persons you intend to bring to the meeting and we must have the information at least five days before the meeting.

If after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order which will include a compliance schedule and an appropriate penalty. In accordance with the Department's July 17, 2007 "Settlement Guidelines for Civil Administrative Penalties" and the RCRA Civil Penalty Policy of May 2008, the penalty proposed in the case is \$23,721.00 plus \$500.00 for costs and expenses.

Please be advised that this Warning Letter is part of an agency investigation, preliminary to agency action in accordance with Section 120.57(5), Florida Statutes. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Jack Long
District Director
Southeast District

7-1-09
Date


JL/JWL/KK/kw

Attachments: Hazardous Waste Inspection Report
Penalty Justification Worksheets

cc: West Palm Beach DEP File/Archboard
Alik Moncrief, Office of General Counsel
Michael Redig via Oculus
Dee Dupuy, Broward County EPD
Bernie Korzekwinski, Hydrocarbon Recovery Services, Inc.



Florida Department of
Environmental Protection
Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: FCC Environmental

On-Site Inspection Start Date: 10/13/2008

On-Site Inspection End Date: 10/13/2008

ME ID#: 28736

EPA ID#: FLD984262410

Facility Street Address: 1280 NE 48th St, Pompano Beach, Florida 33064-4909

Contact Mailing Address: 5690 W Midway Rd Ste B, Fort Pierce, Florida 34981-4833

County Name: Broward

Contact Phone: (954) 785-2320

NOTIFIED AS:

CESQG (<100 kg/month)

Transporter

Transfer Facility

Used Oil

INSPECTION TYPE:

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

Routine Inspection for Used Oil Generator facility

Routine Inspection for Hazardous Waste Transporter facility

Routine Inspection for Hazardous Waste Transfer Facility

Routine Inspection for Used Oil Transporter facility

Routine Inspection for Used Oil Transfer Facility

Routine Inspection for Used Oil Processor facility

Routine Inspection for Universal Waste Transporter facility

INSPECTION PARTICIPANTS:

Principal Inspector: Kathy R. Winston, Inspector

Other Participants: Jowana Knight, Environmental Specialist; Anthony Fuoco, Transportation Supervisor;
Tyron Halfhill, Yard Supervisor; Dee Dupier

LATITUDE / LONGITUDE: Lat 26° 17' 22.5635" / Long 80° 6' 23.2854"

SIC CODE: 5093 - Wholesale trade - scrap and waste materials

TYPE OF OWNERSHIP: Private

Introduction:

Hydrocarbon Recovery Services, Inc. is a full-service recycling, recovery and remediation company dba FCC Environmental that has been operating at this location since 1993. The facility sits on approximately 4 acres and the company employs 22 people; 15 of whom work in operations. The facility is connected to city water and sewer. FCC is currently registered as a hazardous waste transporter and transfer facility. FCC is a used oil transporter, transfer facility, processor and marketer. FCC is also a used oil filter transporter, transfer facility and processor, however, no filter processing is occurring on-site at this time. FCC is also in the parts washer business; both sales and service.

Process Description:

The facility maintains a tank farm area with a capacity of 432,000 gallons, a wastewater pre-treatment plant, a used oil processing area, a hazardous waste 10-day transfer area and a truck repair garage. The garage is rarely used as most repairs are contracted out.

Inspection Date: 10/13/2008

A trailer containing spill response equipment is stationed near the garage and is designed for on-site use if needed. The entire facility is surrounded by a 10-foot high concrete wall and, according to FCC's records, has an impervious base consisting of three feet of reinforced concrete over 60-mil geothermic lining. Telephones and fire extinguishers are stationed throughout the facility for easy access.

The inspectors found several issues in the hazardous waste transfer facility area including lack of aisle space and improperly contained Universal Waste lamps that were not labeled. Stored in the rear corner of the hazardous waste transfer facility area, inspectors found a green drum whose faded hazardous waste sticker was not legible. Facility representatives were unsure of the container's content.

The solid waste collection area is contained by a "speed bump" type of containment. In this area and near the western end of the pole barn were several empty drums, two of which had no bungs and were being allowed to collect rainwater. In this same area was an over sized orange poly drum that had been cut in half. It was open and appeared to contain oily water with trash and personnel protective equipment floating on top. Along with these other drums was a product grease drum left open to the elements. The solid waste consolidation rollofs were not labeled or covered and next to the sludge rolloff were six drums waiting consolidation with no covers and rainwater collecting on top.

Record Review - General facility inspection logs were not available for review and there were no records indicating that FCC's drivers had received appropriate DOT training. The Contingency Plan had the wrong person as the facility's emergency coordinator and lacked a list of the specifications, capabilities and locations of emergency response equipment. One manifest was found to have no waste codes and the facility's Used Oil transporter registration was not posted in a conspicuous place.

New Potential Violations and Areas of Concern:

Transporters Checklist

Type: Area Of Concern

Rule: 263.20

Question Number: 1.40

Question: Do the manifests contain at least:

Explanation: One manifest (002999690) had no waste codes.

Corrective Action: Hydrocarbon Recovery Services should not receive waste without a properly filled out manifest.

Type: Violation

Rule: 264.15(b)(2)

Question Number: 1.270

Question: Does the facility have completed inspection logs?

Explanation: Facility could not provide copies of a facility inspection log.

Corrective Action: Please begin following the facility inspection plan in your permit and submit copy with three weeks of the log filled out.

Type: Violation

Inspection Date: 10/10/2016

Rule: 265.16(a)(3)

Question Number: 1.360

Question: Does training include emergency response procedures, inspection procedures, and operation of hazardous waste handling equipment?

Explanation: There was no evidence that drivers had the appropriate DOT training in the last three years.

Corrective Action: Provide proof that all drivers are up to date on DOT training.

Type: Violation

Rule: 265.35

Question Number: 1.520

Question: Is there sufficient aisle space to allow unobstructed movement of personnel and equipment? (e.g., adequate aisle space in between barrels to check for leakage, corrosion and proper labeling, etc.)

Explanation: Drums in transfer facility area stacked on top of one another and too close together to inspect properly.

Corrective Action: Please separate drums in transfer facility area so container inspections can be performed properly.

Checklist Independent Potential Violations and Areas of Concern

Type: Violation

Rule: 273.14(e)

Explanation: Universal Waste lamps were not properly labeled.

Corrective Action: Properly label Universal Waste lamps and send photo.

Type: Violation

Rule: 262.11

Explanation: There was a green drum in the transfer facility area that had a faded hazardous waste sticker on it, however, facility representatives were unable to identify the contents.

Corrective Action: Please preform a waste determination on this drum and provide Department information as to its' content.

Type: Area Of Concern

Rule: 62-710.500(4)

Explanation: Current used oil transporter registration was not displayed in lobby.

Corrective Action: Please replace with current document when received from Tallahassee.

Type: Violation

Inspection Date: 10/13/2008

Rule: 279.52(a)(1)

Explanation: Oily solid waste containers were open to the elements and collecting rainwater which could cause a release to the environment.

Corrective Action: Please properly cover and label all solid waste rollofs and containers and provide pictures.

Type: Violation

Rule: 265.54(d)

Explanation: The emergency coordinator in the facility's contingency plan no longer works at this facility.

Corrective Action: Please update the emergency coordinator information in the facility's contingency plan and provide the updated pages to the Department and the appropriate local authorities.

Type: Violation

Rule: 265.52(e)

Explanation: The facility's contingency plan did not include a list of the specifications, capabilities or locations of emergency response equipment.

Corrective Action: Please provide information pertaining to the specifications, capabilities, and locations of emergency equipment on site.

Summary of Potential Violations and Areas of Concern:

Potential Violations

Rule Number	Area	Date Cited	Explanation
Transporters Checklist			
264.15(b)(2)		10/13/2008	Facility could not provide copies of a facility inspection log.
265.16(a)(3)		10/13/2008	There was no evidence that drivers had the appropriate DOT training in the last three years.
265.35		10/13/2008	Drums in transfer facility area stacked on top of one another and too close together to inspect properly.
Checklist Independent Violations			
273.14(e)		10/13/2008	Universal Waste lamps were not properly labeled.
262.11		10/13/2008	There was a green drum in the transfer facility area that had a faded hazardous waste sticker on it, however, facility representatives were unable to identify the contents.
279.52(a)(1)		10/13/2008	Oily solid waste containers were open to the elements and collecting rainwater which could cause a release to the environment.
265.54(d)		10/13/2008	The emergency coordinator in the facility's contingency plan no longer

Inspection Date: 10/13/2008

Rule Number	Area	Date Cited	Explanation
265.52(e)		10/13/2008	works at this facility. The facility's contingency plan did not include a list of the specifications, capabilities or locations of emergency response equipment.

Areas of Concern

Rule Number	Area	Date Cited	Explanation
Transporters Checklist 263.20		10/13/2008	One manifest (002999690) had no waste codes.
Checklist Independent Areas of Concern 62-710.500(4)		10/13/2008	Current used oil transporter registration was not displayed in lobby.

Conclusion:

Based on the inspection, FCC appears to generate less than 100 kg of hazardous waste per month which would classify them as a Conditionally Exempted Small Quantity Generator (CESQG), however, as a permitted facility FCC has obligations beyond their generation status. An exit interview was conducted at the conclusion of the inspection which addressed the potential violations listed above.


The facility was found to be out of compliance at the time of the inspection. The facility was given 30 days to return to compliance.

Inspection Date: 10/13/2008

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.

Kathy R Winston	Inspector
PRINCIPAL INSPECTOR NAME	PRINCIPAL INSPECTOR TITLE
	FDEP
PRINCIPAL INSPECTOR SIGNATURE	ORGANIZATION
	6/10/2009
	DATE

Jowana Knight	Environmental Specialist
INSPECTOR NAME	INSPECTOR TITLE

NO SIGNATURE	FDEP
INSPECTOR SIGNATURE	ORGANIZATION

Dee Dupier	
INSPECTOR NAME	

NO SIGNATURE	Broward Co. EPD
INSPECTOR SIGNATURE	ORGANIZATION

Anthony Fuoco	Transportation Supervisor
REPRESENTATIVE NAME	REPRESENTATIVE TITLE

NO SIGNATURE	Hydrocarbon
REPRESENTATIVE SIGNATURE	ORGANIZATION

Tyrone Halfhill	Yard Supervisor
REPRESENTATIVE NAME	REPRESENTATIVE TITLE

NO SIGNATURE	Hydrocarbon
REPRESENTATIVE SIGNATURE	ORGANIZATION

Inspection Date: 10/19/2006

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.