



Florida Department of Environmental Protection

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

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

May 21, 2010

ELECTRONIC MAIL
choward@perma-fix.com

Cory Howard, Operations Manager
Perma-Fix of Orlando, Inc.
10100 Rocket Blvd
Orlando, FL 32824

OCD-HW-E-10-116

Orange County-HW
Perma-Fix of Orlando, Inc.-FLD980559728
Short Form Consent Order Letter

Dear Mr. Howard:

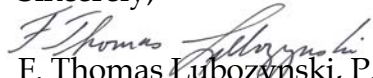
A hazardous waste compliance inspection was conducted at your facility on January 25, 2010. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes. The inspection was designed to determine the compliance status of your facility with 40 CFR 260-268 and 279, adopted in Florida Administrative Code Chapters 62-730 and 62-710.

The Department has reviewed the submittals provided by Perma-Fix of Orlando, Inc. concerning corrective actions and has the following comments:

- a) Drum Labeling: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation.
- b) Accumulation Date: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation.
- c) Manifest: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation.
- d) Waste Analysis Plan: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation but agrees to reduce the penalty to the low end of the matrix.
- e) Minimizing Releases: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation but agrees to reduce the penalty to the low end of the matrix.
- f) Contingency Plan: The Department maintains that Perma-Fix of Orlando, Inc. violated this regulation but agrees to change the matrix to a minor/minor and reduce the penalty to the low end of the matrix.

Enclosed is a copy of the revised penalty calculations and a Short Form Consent Order for your review and, if acceptable, please sign and return by June 4, 2010. If you have questions concerning this matter, please e-mail Janine Kraemer at Janine.Kraemer@dep.state.fl.us or call her at (407) 893-3329. Your response should be mailed to Janine Kraemer at the letterhead address above.

Sincerely,



F. Thomas Luboziński, P.E.

Waste Program Administrator

for

Vivian F. Garfein

Director, Central District

VFG/jk

Enclosures:

1. Short Form Consent Order with Warning Letter Attached
2. Revised Penalty Computation Worksheet

cc: Debby Valin, P2 Coordinator, FDEP, Debby.Valin@dep.state.fl.us
Kurt Fogleman, Compliance Officer, Perma-Fix, kfogleman@perma-fix.com



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OCD-HW-E-10-116

SUBJECT: Proposed Settlement of Perma-Fix of Orlando, Inc.-FLD980559728
OGC File No.: 10-1669

Dear Mr. Howard:

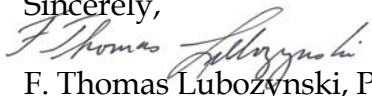
The purpose of this letter is to complete the resolution of the matter previously identified by the Department in the Warning Letter, OWL-HW-E-10-004, dated April 5, 2010, a copy of which is attached. The corrective actions required to bring your facility into compliance have been performed. The Department finds that you are in violation of 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 \$24,354.00, along with \$500.00 to reimburse the Department costs, for a total of \$24,854.00. The civil penalty in this case includes two 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 10-1669 and the notation "Ecosystems Management and Restoration Trust Fund." Payment shall be sent to the Department of Environmental Protection, Central District, 3319 Maguire Blvd, Suite 232, Orlando FL 32803, 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 by June 4, 2010, the Department will assume that you are not interested in settling this matter on the above described terms, and will proceed accordingly. None of your rights or substantial interests are determined by this letter unless you sign it and it is filed with the Department Clerk.

Sincerely,



F. Thomas Lubozynski, P.E.
Waste Program Administrator
for
Vivian F. Garfein
Director, Central District

FOR THE RESPONDENTS:

I, _____ (print name and title) on behalf of _____

_____ **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT**

OFFER IDENTIFIED ABOVE.

By: _____

Date: _____

FOR DEPARTMENT USE ONLY

DONE AND ENTERED this _____ day of _____, 2010.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Vivian F. Garfein
District Director

FILING AND ACKNOWLEDGMENT

FILED, on this date, pursuant to §120.52, Florida Statutes, With the designated Department Clerk, receipt of which is hereby Acknowledged.

Clerk

Date

Copies furnished to:
Lea Crandall, Agency Clerk, Mail Station 35

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.

PENALTY COMPUTATION WORKSHEET

Facility's Name: Perma-Fix of Orlando

EPA ID #: FLD980559728

Facility Address: 10100 Rocket Blvd, Orlando FL 32824

Staff Responsible for the Penalty Computations: Janine Kraemer Revised Date: 5/17/10

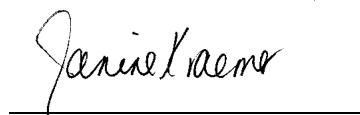
Violation Type		Potential for Harm	Extent of Deviation	Matrix Range	Multi Day	Other Adjustment	Total
a.	262.34(a)(2) Drum dating	Minor	Minor	\$644-\$500			\$644
b.	262.34(a)(3) Drum Labeling	Minor	Minor	\$644-\$500			\$644
c.	263.20 Manifest	Minor	Moderate	\$1,933-\$645			\$1,933
d.	264.13(a) Waste Analysis	Moderate	Major	\$14,184-\$10,316			\$10,316
e.	264.31 Minimizing Releases	Moderate	Major	\$14,184-\$10,316			\$10,316
f.	264.54 Contingency Plan	Minor	Minor	\$644-\$500			\$500

Multiday penalties were not selected as it was not possible to determine the number of days out of compliance at this time. Economic benefit not calculated for these violations.

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:

\$24,354.00

Prepared by:



Janine Kraemer, CHMM
Environmental Specialist
Date: 5/17/10



F. Thomas Lubozynski, P.E.
Waste Program Administrator
for
Vivian F. Garfein
Director, Central District
Date: 5/21/10

WORKSHEET RANKING SYSTEM FOR POTENTIAL FOR HARM

Facility's Name: Perma-Fix of Orlando

EPA ID #: FLD980559728

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
a.	262.34(a)(2)	Drum Dating	4	2	1	2	9
b.	262.34(a)(3)	Drum Labeling	4	2	1	2	9
c.	263.20	Manifest	4	2	1	2	9
d.	264.13	Waste Analysis	4	2	6	2	14
e.	264.31	Minimizing Releases	4	2	6	2	14

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	6 - Actual Release	4 - > 1,000
	5 - 1,000 to 5,000 kg (6 to 25 drums)	4 - High potential for release	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 1,000 kg (6 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.**



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choward@perma-fix.com

Cory Howard, Operations Manager
Perma-Fix of Orlando, Inc.
10100 Rocket Blvd
Orlando, FL 32824

WARNING LETTER
OWL-HW-E-10-004

Orange County-HW
Perma-Fix of Orlando, Inc.
FLD980559728

Dear Mr. Howard:

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 conducted at your facility on January 25, 2010. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes in order to determine the compliance status of your facility with 40 Code of Federal Regulations (CFR) Parts 260-268, and Part 279 adopted in the Florida Administrative Code and other Florida laws relating to hazardous waste and used oil.

During the inspection, Department personnel observed possible violations of Florida Statutes and Rules regarding used oil 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 activity at your facilities 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 September 2004, and the Department's Guidelines for Characterizing RCRA Violations. A copy of the documents is available upon request.

Please contact Janine Kraemer, Hazardous Waste Section, by telephone at (407) 893-3329 or by e-mail at janine.kraemer@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,



F. Thomas Lubozynski, P.E.
Waste Program Administrator
for
Vivian F. Garfein
Director, Central District
Date: 4/5/10

VFG/jk

Enclosures:
Inspection Report
Pictures
Penalty Calculation Worksheet

cc:
Debby Valin, P2 Coordinator, FDEP, Debby.Valin@dep.state.fl.us
Kurt Fogleman, Compliance Officer, Perma-Fix, kfogleman@perma-fix.com
Robert Burns, Hazardous Materials Investigator, DOT, bob.burns@dot.gov