



Florida Department of Environmental Protection

Northeast District
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Jacksonville, Florida 32256

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Secretary

September 30, 2011

SENT VIA EMAIL

pcomella@seyfarth.com

Mr. Philip Comella
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
Chicago, Illinois 60603

**Re: Heritage - Crystal Clean, LLC
11643 103rd Street, Jacksonville, FL 32221
Warning Letter WL09-2446HWSNY16NED
EPA/DEP ID: FLR 000 154 278
Duval County – Hazardous Waste**

Dear Mr. Comella:

The Florida Department of Environmental Protection (DEP) has reviewed the information received from you on behalf of Heritage – Crystal Clean (HCC) on December 16, 2010, in response to our letter dated November 16, 2010. The DEP has the following comments on this submittal:

Potential Violation 3 – Inspection Plan [40 CFR 265.15]:
No further corrective action is required.

Potential Violation 6 – Ignitable Waste [40 CFR 265.176]:
No further corrective action is required.

Potential Violation 7 – Log Sheet Requirements [Rule 62-730.171(6), F.A.C.]:
The log provided with the December 16, 2010, submittal tracks only **non-hazardous waste** entering and leaving the facility. Of the information required by Rule 62-730.171(6), F.A.C., the log submitted shows only the date waste was received, the number of containers, and the date waste was shipped out of the facility. If HCC uses the same log system to track **hazardous waste** entering and leaving the facility, the following information is missing, pursuant to Rule 62-730.171(6), F.A.C. (See below for the text of the rule):

- the hazardous waste manifest number for each shipment (or another

- identifying number from the shipping document if the waste is shipped from a CESQG),
- the generator's name,
 - the generator's EPA ID number (or the generator's address, if the hazardous waste is shipped from a CESQG without an EPA/DEP identification number), and
 - the hazardous waste codes associated with each shipment into and out of the facility.

Rule 62-730.171, F.A.C.

(6) The transfer facility shall maintain a written record of the items listed below. This recordkeeping requirement applies to all hazardous waste that enters and leaves the transfer facility, including hazardous waste generated by CESQGs. Records required in this subsection shall be maintained in permanent form for at least three years and shall be available for inspection by the Department. The records shall be kept at the facility unless the Department gives written approval to do otherwise.

(a) Manifest number for each shipment that enters and leaves the facility, or, for a shipment from a CESQG without a manifest, an identifying number from the shipping document.

(b) The date when all hazardous waste enters and leaves the facility.

(c) The generator's name and the EPA/DEP identification number. For CESQGs without an EPA/DEP identification number, the record shall include the name and address of the generator.

(d) Amounts of hazardous waste and hazardous waste codes associated with each shipment into and out of the facility.

Please provide a paper copy of the format for a hazardous waste tracking log that will be used at the facility to demonstrate and maintain compliance with Rule 62-730.171(6), F.A.C. For each shipment that enters and leaves the facility, the log must list and must connect the information in each of the above subparagraphs of the rule. HCC's work order numbers, internal customer identifier numbers, waste stream codes, etc., may not be substituted for the generator and waste identification information required by the rule. The rule requires that this record be maintained at the facility in permanent form for at least three years and be available for inspection by the DEP unless the Department gives written approval otherwise. After receiving DEP approval of a tracking log that includes all of the required information, HCC may comply with this rule by keeping the required information electronically if an electronic copy or a paper copy of the log can be produced **at the facility** and made available for inspection at the request of the Department.

Potential Violation 8 – Transfer Facility Approval [Rule 62-730.171(3), F.A.C.]:
No further corrective action is required.

Potential Violation 9 – Training Records [40 CFR 265.16(d)]:

The training program appears to be adequate for **used oil** transportation; however, further information is needed on the **hazardous waste** training provided by HCC. Please submit the course description and outline for the course entitled “RCRA (Annual)(Course)” that was listed in some of the training records provided. In addition, the facility should submit the Jacksonville Branch employee job titles and descriptions required under 40 CFR 265.16(d)(1) and (2).

Potential Violation 10 – Used Oil Transporter Records [Rule 62-710.510(1), F.A.C.]:

Records documenting both the **source** of the used oil and the **destination or end use** of used oil are required by Rule 62-710.510(1), F.A.C. (The text of the rule is provided below. Additional tracking records for used oil are also required by 40 CFR 279.46.)

Rule 62-710.510, F.A.C.

(1) Each registered person shall maintain records on DEP Form 62-710.901(2) or on substantially equivalent forms which contain at least the same information as the Department form. These records shall include the following information:

(a) The name, business address, telephone number and EPA identification number of the transporter;

(b) The source of the used oil, including the name and street address of each source, and the EPA identification number of the source if the generator has one;

(c) The total number of gallons of used oil received from each source, including any oily wastes which may be an integral part of the used oil shipment;

(d) The type of used oil received, using the type code designation found in the form instructions;

(e) The date of receipt;

(f) The destination or end use of used oil and oily wastes, including the name and street address of each destination or end user, the EPA identification number if applicable, and the end use code designation found in the form instructions; and

(g) Documentation of halogen screening in accordance with the requirements of Rule 62-710.600, F.A.C.

HCC has previously indicated that it does not maintain records on DEP Form 62-710.901(2), but that it maintains records that are substantially equivalent. DEP has requested this information a number of times, including during the inspection, several subsequent phone calls and e-mails, the March 10, 2010, teleconference, and our letter of November 16, 2010.

Although HCC's December 16, 2010, cover letter stated that six months of **acceptance** records were attached, no information on the **source** of the used oil accepted by HCC for transportation was attached. The name and address of the source, EPA ID number (if applicable), number of gallons, type of used oil (and code), and date of receipt by HCC are all required by the rule. Some individual records of used oil **delivery** were attached to the December 16, 2010, submittal, but

those records were incomplete, as they did not indicate the sources of used oil that had been combined into single tanker loads, and they were not summarized on a form that is substantially equivalent to DEP Form 62-710.901(2).

Please provide for DEP's review a paper copy of the format for a used oil record keeping form that will be used at the facility to demonstrate and maintain compliance with Rule 62-710.510(1), F.A.C. A copy of DEP Form 62-710.902(2) and the instructions for the form are attached for your convenience. We encourage HCC to consider this form in designing a new used oil tracking plan. For each shipment the tracking form used must list and must connect the information in each of the above subparagraphs of the rule. HCC's work order numbers, internal customer identifier numbers, waste stream codes, etc., may not be substituted for the information required by the rule. This rule allows used oil transportation records to be kept offsite, but the records must still be made available for inspection by the DEP. To comply with Rule 62-710.510, F.A.C., for every shipment of used oil transported, HCC must be able to provide the DEP with either an electronic copy or a paper copy that contains all of the information required by the rule, summarized on a form that is substantially equivalent to DEP Form 62-710.901(2).

The "end use code designation" of the used oil was not included [Rule 62-710.510(1)(f), F.A.C]. On most of the records, a signature of the receiving facility was not obtained, as required by 40 CFR 279.46(b)(5)(i). In addition, there was inconsistency in the identification of the receiving facility at 116 Druid Street, where the used oil was transferred to a rail car. Two records identified TransFlo at 116 Druid Street as the receiving facility, but with the EPA ID number ILR000130062. TransFlo is a registered used oil transfer facility at that address under the name Jacksonville Transflo Terminal; however, its EPA ID number is FLD984253526. On all other Bills of Lading provided, Heritage Crystal Clean LLC, using the EPA ID number ILR000130062 and the 116 Druid Street address, is identified as the receiving facility. HCC is not a registered used oil transporter at that address, nor is it a permitted used oil processor at that address. Pursuant to 40 CFR 279.43, a used oil transporter must deliver all used oil received to: (1) another used oil transporter; (2) a used oil processing/re-refining facility; (3) an off-specification used oil burner; or (4) an on-specification used oil burner.

HCC's records should identify where the used oil is taken after it leaves the Jacksonville Transflo Terminal, as well as the end receiving facility, if they are not the same.

As discussed during the March 10, 2010, teleconference, this matter can be resolved through entry of a consent order that includes an appropriate civil penalty. Demonstrating good faith by expeditiously correcting all violations will be to your

benefit in the Department's final penalty calculation. Also, be advised that the penalty amount will include violations at your Tampa, Florida, facility.

Please contact Vicky Valade at 904.256.1669 or Vicky.Valade@dep.state.fl.us within 15 days of the date of this letter to schedule a teleconference to discuss resolution of the remaining issues.

Sincerely,



Michael J. Fitzsimmons, Administrator
Waste Program

MJF:jp

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