FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
Southeast District Office
400 N. Congress Avenue, 3rd Floor
West Palm Beach, FL 33401
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RICK SCOTT
GOVERNOR

HERSCHEL T. VINYARD JR.
SECRETARY

August 9, 2013

ELECTRONIC CORRESPONDENCE Mike_Isom@kellytractor.com

Mr. Nicholas D. Kelly, Vice President and Registered Agent
c/o Mr. Mike Isom, Safety and Environmental Manager
Kelly Tractor Company
8255 NW 58th St.
Doral, Florida 33166-3493

Re: Compliance Assistance Offer
Kelly Tractor Company – Miami Facility
Miami-Dade County
EPA ID No.: FLD981925811

Dear Mr. Kelly and Mr. Isom:

A hazardous waste and used oil compliance inspection was conducted at your facility on February 26, 2013, under the authority of Section 403.091, Florida Statutes (F.S.). During this inspection, possible violations of Chapter 403, F.S. and Chapters 62-730 and 62-710, Florida Administrative Code (F.A.C.) were observed. The purpose of this letter is to offer you compliance assistance as a means of resolving these matters.

Please see the attached inspection report for a full account of Department observations and be advised this Compliance Assistance Offer is part of an agency investigation preliminary to agency action in accordance with Section 120.57(5), F.S. We request you review the items of concern noted in the attached inspection report and respond in writing within **15 days** of receipt of this Compliance Assistance Offer. Your written response should either:

1. Describe what you have done to resolve the issue (see the Corrective Actions listed in the "New Potential Violations and Areas of Concern" section of the attached report),
2. Provide information that either mitigates the concerns or demonstrates them to be invalid, or
3. Arrange for one of our inspectors to visit your facility to offer suggested actions to return to compliance without enforcement.

It is the Department's desire that you are able to document compliance or corrective actions concerning the possible violations identified in the attached inspection report so that this matter can be closed without enforcement. Your failure to respond promptly in writing (or by e-mail) may result in the initiation of formal enforcement proceedings.

Please address your response and any questions to Roger Carman of the Southeast District Office at (561) 681-6720 or via e-mail: roger.carman@dep.state.fl.us . We look forward to your cooperation with this matter.

Sincerely,

Jennifer K. Smith
Assistant Director
Southeast District Office

JKS/JL/KK/rc

Enclosure: Hazardous Waste Inspection Report dated February 26, 2013

Cc: Electronic Archboard/OCULUS
Karl Markeset, RER, Miami-Dade County via email: markek@miamidade.gov
Roger Plamondon, Service Manager, Kelly Tractor, via email: Roger_Plamondon@kellytractor.com

Florida Department of

Environmental Protection

Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: Kelly Tractor Company

On-Site Inspection Start Date: 02/26/2013 **On-Site Inspection End Date:** 02/26/2013

ME ID#: 57627 **EPA ID#:** FLD981925811

Facility Street Address: 8255 NW 58th St, Doral, Florida 33166-3493

Contact Mailing Address: 8255 NW 58th St, Doral, Florida 33166-3406

County Name: Miami-Dade **Contact Phone:** (305) 592-5374

NOTIFIED AS:

SQG (100-1000 kg/month)
Used Oil

INSPECTION TYPE:

Routine Inspection for SQG (100-1000 kg/month) facility

Routine Inspection for Used Oil Generator facility

INSPECTION PARTICIPANTS:

Principal Inspector: Roger E. Carman, Inspector

Other Participants: Mike Isom, Safety and Environmental Manager; Roger Plamondon, Service Manager

LATITUDE / LONGITUDE: Lat 25° 49' 41.7103" / Long 80° 19' 54.8871"

SIC CODE: 7699 - Services - repair services, nec

TYPE OF OWNERSHIP: Private

Introduction:

On February 26, 2013, a representative of the Florida Department of Environmental Protection (DEP) conducted a hazardous waste and used oil compliance evaluation inspection at Kelly Tractor Company (Kelly). This was a focused inspection covering the Forklift Division Shop and the small paint booth associated with the shop. The Oil Analysis Laboratory was also part of this inspection. Kelly's main facility was last inspected on February 12, 2013, as a Small Quantity Generator and was determined to be in compliance.

Note: Kelly Tractor's main facility address is 8255 NW 58th St, Doral, Florida 33166-3493; however, the Forklift Division's address is 8205 NW 58th Street, which east and contiguous with the main facility. Pantropic Power, Inc. is also co-located at 8205 NW 58th Street, but operates under EPA ID #FLD982091787.

Kelly Tractor was previously inspected on 02/12/13 as a SQG and used oil transporter. Previous inspections did not included the Forklift Division and it paint booth or the Oil Analysis Laboratory.

Process Description:

The inspector toured the Forklift Division with Mr. Isom and Mr. Plamondon and observed the following waste management units and procedures:
Forklift Repair and Maintenance Shop:
One Safety-Kleen Recycle Kleen parts washer serviced by SK every six weeks.
Lead/acid batteries are recycled through Battery Sales in Hialeah. Industrial batteries are recycled through American Battery.
Red shop rags are picked up by Aramark.

Used oil, used oil filters and oily absorbents are picked up by FCC.
The floor cleaning machine water and the mop water are disposed of in Kelly's equipment wash rack.
The facility recently acquired a 275-gallon steel double walled aboveground tank for used oil. The tank had not been installed in the facility and was not in use.

The inspector observed the following containers inside the Forklift Shop:
>Four, 55-gallon drums of used oil, labeled Waste Oil, stored on secondary containment.
>Two, 55-gallon drums of used oil filters, labeled used oil filters.
>Two, 55-gallon drums of oily absorbents, labeled non-hazardous used absorbents only.

Kelly was using CRC Heavy Duty Degreaser in aerosol cans to as solvent to clean parts. Paper towels are used to wipe down the parts and absorb degreaser. The waste paper towels were being disposed of in the regular shop trash which is then picked up by Kelly's maintenance personnel and placed in the facility's regular trash dumpster. Mr. Plamondon estimated that about one box of paper towels is used every two weeks. No solvent contaminated paper towels were observed in the trash at the time of the inspection. A review of the MSDS for the degreaser showed it contains tetrachloroethylene (perc) 50%-60% by weight and trichloroethylene (TCE) 40%-50% by weight. Based on the concentrations of perc and TCE, the waste solvent contaminated paper towels would meet the F002 hazardous waste listing and may exhibit the Toxicity Characteristic Leaching Procedure (TCLP) for tetrachloroethylene (D039) and trichloroethylene (D040).

Forklift Division Paint Booth:
This small paint booth is located north of the Forklift Repair and Maintenance Shop and adjacent to the waste antifreeze storage area for Pantropic Power. The paint booth has 18, 15" x 15" PET filters that are managed has hazardous waste when changed. The paint booth is operated by an independent contractor, but the hazardous wastes are disposed of by Kelly. Lacquer thinner is used on paper towels to wipe down parts and the paper towels are disposed of in the regular trash in the Forklift Shop. Typical spent lacquer thinner meets the F003/F005/D001 hazardous waste codes.

The inspector observed the following containers outside the paint booth:
>One, 55-gallon drum 1/3 full of waste thinner, labeled hazardous waste, closed using a closed funnel installed in the drum's lid, dated 12/12/12 and stored on a plastic secondary containment pallet.
>One, 55-gallon satellite accumulation drum of used paint booth filters, labeled Used Paint Filters, closed.

Document Review:
FCC Environmental Service Order #1632783 dated 02/01/13 and its associated invoice #PJ10296584 dated 02/14/13 both document that two containers paint filters were transported off-site on 02/10/2013. No hazardous waste manifest or Land Disposal Restriction (LDR) notice for these wastes was provided to the inspector at the time of the inspection. Because Kelly is a Small Quantity Generator, all hazardous waste must be shipped off-site using a hazardous waste manifest and at least one initial LDR notice.

Oil Analysis Laboratory:
Kelly operates a QC lab to test oils and diesel fuels. This lab also analyzes oils and diesel fuels for Pantropic Power. The lab was not physically inspected during the inspection but in an email dated 03/12/13, Mr. Isom provided the inspector with the following information about the lab:

"The two Viscometer instruments use heptane to clean the tubes/flush out the oil. (New, clean heptane is pumped into the tubes and the flushed out, oily, black mixture is pumped into a 5 gallon plastic container). In approximately 3 weeks the plastic container is full and it is dumped in a used oil container and then pumped into the used oil tanks.

An Infrared Scanning instrument evaluates the condition of the oil in a sample such as soot, oxidation, sulfation etc. and this instrument also uses heptane to clean the cell and vital instrument parts between each sample. (The oily mixture is pumped into its own 5 gallon plastic container). In approximately 3 weeks the plastic container is full and it is dumped in a used oil container and

then pumped into the used oil tanks.

The Plasma Spectrometer measures the wear elements in the used oil; iron, chrome, aluminum, copper etc. and the samples are diluted with kerosene so the oil can flow through the small diameter tubing the instrument uses. This instrument uses kerosene to clean the tubing and parts after every sample and the collection of the oily, kerosene waste is contained in a 4 gallon plastic container. This container is dumped approximately once a week into a used oil container and then pumped into the used oil tanks.

The Particle Count instrument uses a small quantity of kerosene once each morning and once at the end of the day to clean the sensor and it is collected into a one gallon used oil container along with the oil samples run through the sensor each day. This one gallon container is dumped approximately once a week into a used oil container and then pumped into the used oil tanks.

The Set-A-Flash instrument is used for a quick check for "fuel dilution" on used diesel engine oil samples. The used oil in the cup is sucked out, after the test, into a one gallon jug and later goes into a used oil container and then into the used oil tanks.

The 3 to 4 ounce size oil sample bottles with remaining oil inside are dumped into a 5 gallon bucket and hand carried down the steps to a used oil container and then pumped into the used oil tanks. The 3 to 4 ounce sample bottles with residual oil. bottle caps, sampling tubing and test tubes are put in 55 gallon plastic drums and hauled away by FCC Environmental.

The 3 to 4 ounce size anti-freeze samples are analyzed as we receive them, no dilution, no treatment necessary. All of the sample remains after the test and they are dumped in a 55 gallon plastic drum labeled used anti-freeze. The sample bottles, caps, and sampling tubing are put in 55 gallon plastic drums and hauled away by FCC Environmental."

In an email to the inspector dated 03/21/13, Mr. Isom provided analytical results for TCLP RCRA heavy metals and flashpoints for the wastes from the viscometers, infrared, and spectrometer instruments. None of the samples exceeded the TCLP regulatory concentrations for heavy metals. The spectrometer's waste had a flashpoint of 140 degrees F and the viscometer and infrared instruments' waste each had a flashpoint of 70 degrees F.

In an email to the inspector dated 04/08/13, Mr. Isom provided analytical results for TCLP RCRA heavy metals and flashpoint for the waste from the Particle Count instrument. The sample did not exceed the TCLP regulatory concentrations for heavy metals. The Particle Count instrument's waste had a flashpoint of 160 degrees F.

Based on the analytical results for the above instruments' waste, only the waste heptane/oil mixture from the viscometers and infrared instruments were hazardous wastes based solely on the characteristic of ignitability (D001). The 5-gallon containers accumulating these waste streams must be managed as hazardous waste satellite accumulation containers and labeled or marked with the words "Hazardous Waste" or other words to identify the contents of the containers such as "Waste heptane/oil mixture." Since the heptane/oil waste is hazardous based solely on the characteristic of ignitability, the waste may be mixed with other used oil and managed under the used oil rule provided the resulting mixture of the heptane/oil waste and other used oil does not exhibit the characteristic of ignitability [see 40 CFR 279.10(b)(2)(iii)]. This includes the mixtures in the intermediate 55-gallon used oil drum and the final mixture in the used oil storage tank. Although allowed by the rules, the Department does not recommend mixing the waste heptane/oil with other used oils.

Personnel Training:
Based on the improper management of hazardous waste determined by the inspection, it appeared to the inspector that not all Kelly employees and independent contractors managing hazardous wastes had been properly trained.

New Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	262.11
Question Number:	4.1
Question:	Did the facility conduct a waste determination on all wastes generated?
Explanation:	Kelly failed to determine if paper towels contaminated with F-listed solvents were hazardous wastes prior to being disposed of in regular trash. Kelly failed to determine if the waste heptane/oil from the Oil Analysis Lab was a hazardous waste prior to mixing it with other used oils.
Corrective Action:	A person who generates a waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste by testing the waste or using knowledge of the waste. Please provide the Department with documentation showing how a waste determination was made for the solvent contaminated paper towels. Following the inspection, Kelly provided the waste determination for the heptane/oil waste form the Oil Analysis Lab. The Department recommends that Kelly switch to a non-hazardous solvent, if possible. The Department also recommends that Kelly not mix the waste heptane/oil with other used oils.

Type:	Violation
Rule:	262.20(a)
Question Number:	4.50
Question:	Does the facility use the manifest for all its hazardous wastes?
Explanation:	Two 55-gallon drums of used paint booth filters were shipped off-site on 02/01/13. No hazardous waste manifest was available at the time of the inspection.
Corrective Action:	Please provide copy of the hazardous waste manifest or explain how these wastes were disposed. Hazardous waste manifests must remain on file at the facility for three years from the date each waste was picked up by the transporter.

Type:	Violation
Rule:	262.34(d)(5)(iii)
Question Number:	4.310
Question:	Are facility personnel thoroughly familiar with proper waste handling and emergency procedures?
Explanation:	Based on the improper management of hazardous waste determined by the inspection, it appeared to the Department that not all Kelly employees and independent contractors managing hazardous wastes had been properly trained.
Corrective Action:	The generator must ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relevant to their responsibilities during normal facility operations and emergencies.

Please provide documentation that each employee in the Forklift Division, including the independent contra tors, and the employees in the Oil Analysis Lab have received hazardous waste management training. Independent contractors working at the site who have responsibility for Kelly's hazardous wastes must also be trained or provide Kelly documentation that they have been properly trained in the hazardous waste management procedures for the type of hazardous waste being managed.

Type:	Violation
Rule:	268.7(a)(2)
Explanation:	No Land Disposal Restriction (LDR) notice for the used paint booth filters was available at the time of the inspection.
Corrective Action:	If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in paragraph (a)(4) of this section. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file. Please provide a copy of the initial LDR notice for the paint booth filters.

Areas of Concern

Type:	Area Of Concern
Rule:	262.34(c)(1)(ii)
Question Number:	4.280
Question:	Are satellite containers closed? Are satellite containers marked with the words "Hazardous Waste" or other words that identify the contents of the container?
Explanation:	Based on the photos of the waste containers for the instruments in the oil Analysis Lab, which were submitted in an email from Mr. Isom on 03/22/13, it did not appear the containers were labeled or marked with either the words "Hazardous Waste" or with other words that identify the contents of each container. Note: This only applies to the containers accumulating waste heptane/oil.
Corrective Action:	Kelly must mark or label each satellite accumulation container with either the words "Hazardous Waste" or with other words that identify the contents of each container. Please provide photos of the labeled containers.

Conclusion:

Based on the inspection, Kelly was not in compliance with hazardous waste rules and statutes.

Additional Information Requested:
Please provide copies any hazardous manifests for the disposal of the waste paint thinner from the Forklift Paint Booth.

Please provide photos of the labeled satellite accumulation containers in the Oil Analysis Lab. Please inform the Department if the waste heptane/oil will continue to be mixed with other used oils and how Kelly will determine that each resulting mixture is not an ignitable hazardous waste (D001).

Please provide documentation that each person managing hazardous waste at the Forklift Division, including independent contractors, and at the Oil Analysis Lab have received training in the proper management of hazardous wastes.

Within 15 days of the receipt of this report, please provide a written response to information requested immediately above and to each of the Potential Violations listed above.

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.

Roger E. Carman	Inspector	
PRINCIPAL INSPECTOR NAME	**PRINCIPAL INSPECTOR TITLE**	
	FDEP	5/23/2013
PRINCIPAL INSPECTOR SIGNATURE	**ORGANIZATION**	**DATE**

Supervisor: **Karen Kantor**

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.