

Memorandum

Florida Department of Environmental Protection

To: Brian Dougherty, Environmental Administrator

From: Kathy Winston, Environmental Consultant (Southeast District) *KW*

THROUGH: Jennifer K. Smith, Assistant District Director *JKS*
Joe Lurix, Air/Waste/WF CA/E Program Administrator *JL*
Karen Kantor, Environmental Manager, Solid and Hazardous Waste *KK*

Date: July 26, 2013

Subject: Peer review request- Raider Environmental Services, Inc.

We are requesting a peer review for the issuance of a Warning Letter for the following case:

Company in noncompliance:
Raider Environmental Services, Inc.

Location of facility in noncompliance:
Raider Environmental Services, Inc., 4103 NW 132nd St., Opa Locka, FL 33054

Facility ID:
EPA ID # FLR000143891

Facts necessary to conclude a violation has occurred:

On October 4, 2012, a routine hazardous waste and used oil compliance evaluation inspection was conducted at Raider Environmental Services, Inc. (RES), located at 4103 NW 132nd St., Opa Locka, Florida 33054. Raider Environmental Services (RES) currently operates a Used Oil Processing facility under Department permit #HO13-284932-001, expiration date October 13, 2013. RES is a hazardous waste transporter, as well as a transporter, processor, and marketer of used oil and used oil filters. The facility also processes oily water from tank bottoms and ships' bilges. The facility has been routinely inspected by the Department since 2007, and was subject to enforcement following their previous inspection in March 2011, for noncompliance issues related to their used oil processing permit.

The October 4, 2012, inspection found potential violations of the used oil processing standards, including emergency response and preparedness violations (out of date fire extinguishers, Contingency Plan deficiencies), recordkeeping issues (training records, Waste Analysis Plan), and violations of the state's rules on used oil processing (unpermitted tanks, exceeding permitted quantities of used oil, inadequate financial assurance). Of these, the Contingency Plan violations and the violations of the facility's permit were repeat violations cited in their previous inspection of March 14, 2011. The facility was advised of potential noncompliance issues in a written exit interview given to Mr. Daniel Berler, the facility's compliance manager, at the conclusion of the inspection, with a response timeframe of 21 days. The exit interview described seven detailed action items necessary to begin the process of returning the facility to compliance.

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On October 8, 2012, the inspector called Mr. Berler and explained the issues concerning noncompliance with the permit. After that phone call, the inspector forwarded to Mr. Berler the contact numbers for the facility's permitting engineer in Tallahassee, as well as, the contact person who deals with financial assurance for used oil and solid waste processing facilities.

On October 11, 2012, per the request from the facility's compliance manager, the inspector sent a hyperlink to the facility's permit in Oculus.

On October 18, 2012, the facility compliance manager, Mr. Berler requested a one week extension on their return-to-compliance due date, as he wanted to complete a full revision of the facility's Contingency Plan, which was approved. Also, the facility knew that they would not receive the returned certified mail receipts verifying distribution of the Contingency Plan to local authorities within the allotted time. The inspector advised the facility to submit any documentation they had already obtained in response to the exit interview requests to show a good faith effort to return to compliance.

On October 19, 2012, the facility emailed documentation that completed all but two of the requested items from the exit interview. The inspector pointed out in a return email that a copy of Joey Betancourt's DOT Hazmat certification was still missing. This document is required of any hazmat driver; as a refresher course must be completed ever three years.

On October 22, 2012, a copy of the above mentioned certificate was forwarded by email and in the same email Mr. Berler asked if a formal letter was required to acknowledge response to all the requests for the inspection. The inspector answered that this was not necessary and once the final copy of the Contingency Plan and the returned certified mail receipts were received; all compliance issue requested at the district level would be complete.

Mr. Bheem Kothur, the Department's permitting engineer for the facility, worked with Mr. Steve Obst, facility owner, and John Jones, the facility's consultant to resolve the permitting violations. On October 23, 2012, the Department received a letter from the consultant that included a revised closure cost estimate. Mr. Kothur answered back by emailing a list of what was still required by the Department to complete this major permit modification. The facility was reminded that they had proposed this modification in a letter to the Department in November 2011; however, the Department never heard back from that the facility concerning this request. If it were not for the routine inspection, the Department would not have discovered that the facility had completed this modification without approval.

On October 30, 2012, the final Contingency Plan was submitted for review by the inspector. On November 13, 2012, a final email was sent to the inspector asking about the certified mail receipts and whether the original copies should be sent to the Department. The inspector answered back; explaining that the Department only requires copies of these documents and that the originals should be kept in the back of the Contingency Plan, so the facility can prove compliance with this requirement should any other inspector from our agency or any other request to see them. The copy of these documents was forwarded to the district that same day.

From this point on, the facility continued to work with Tallahassee on a return to compliance with the issues still outstanding before the major permit modification could be granted. They worked with Mr. Kothur concerning the engineering aspects, such as the lack of "as built" for the new

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tanks, a schematic of the new equipment layout and a corresponding tank log, as well as, the modification fee. RES was also working with Mr. Tor Benjar concerning the financial assurance that would cover the new storage capacities and tanks installed at the facility. Unfortunately by the time the facility submitted a revised closing cost and got a stand-by trust in place, it was time for the yearly inflation adjustment and the figure that was posed by the facility was no longer adequate. The facility returned to compliance with all the engineering aspects of the permit modification on March 18, 2012. The Financial Assurance issue was finally addressed on April 1, 2013, at which time the major permit modification was issued.

Specific regulations violated:

1. Emergency Response Equipment

40 CFR 279.52(a)(2)(iii) - All facilities must be equipped with (iii) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment.

The facility failed to have fire extinguishers that had been serviced within the last year.

2. Contingency Plan Content

40 CFR 279.52(b)(2) - Owners and operators of used oil processors and re-refiners facilities must have contingency plan that contains a list of all emergency response equipment on site, their locations, and their capabilities.

The facility failed to have an adequate contingency plan. The facility's Contingency Plan did not include a list of the emergency response equipment, their locations, and their capabilities.

3. Waste Analysis Plan

40 CFR Part 279.55(b) - Owners and operators of used oil processing and re-refining facilities must develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of § 279.53 and, if applicable, § 279.72. The owner or operator must keep the plan at the facility.

The facility failed to have their waste analysis plan on site at the time of the inspection.

4. Training Records

Chapter 62-710.600(2)(c) – A used oil processor must maintain a record of training in the company's operating record and the individual personnel files indicating the type of training received along with the dated signature of those receiving and providing the training. These records shall be available for review by Department personnel during inspections.

The facility failed to provide personnel training records for review during an inspection.

5. Permit Conditions

Chapter 62-710.800(2) - An owner or operator of a used oil processing facility shall operate, modify, or close such a facility only pursuant to a permit issued by the Department in accordance with this chapter.

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The facility modified their facility without first modifying their permit. The facility's original permit indicated that used oil would be stored in tanks eight and nine, which have a combined capacity of 24,000 gallons. However, at the time of the inspection, used oil was being stored in tanks "5", "6", "7," and "16," which would give the facility a combined capacity of 87,000 gallons.

6. Financial Assurance

Chapter 62-710.800(6) – A used oil processor must update their closure cost estimates and obtain Financial Assurance before making substantial modifications to their facility.

The facility failed to obtain Financial Assurance before making substantial modifications to their facility.

Areas of Concern:

1. Preparedness and Prevention

40 CFR Part 279.52(a)(1) – A used oil processor must maintain and operate their facility in such a way as to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water which could threaten human health or the environment.

The facility failed to operate in such a way as to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil or surface water which could threaten human health or the environment by allowing excess amounts of used oil to accumulate in one of their secondary containments.

2. Used Oil Labeling

40 CFR Part 279.54(f) – A used oil processor must label or clearly mark all tanks and containers storing used oil with the words "Used Oil."

The facility failed to label all tanks and containers storing used oil with the words "Used Oil."

3. Emergency Response Arrangements

40 CFR Part 279.52(a)(6) - The owner or operator of a used oil processing facility must attempt to make the following arrangements with local hospitals to familiarize them with the properties of used oil handled at the facility and the types of injuries or illnesses which could result from fires, explosions, or releases at the facility.

The facility failed to provide the name of the local hospital they had made arrangements with in their contingency plan.

Penalty Proposal:

A proposed penalty was calculated for six used oil violations. Three of the violations in the penalty calculation are repeat violations from last inspection; therefore, adjustments were made for history of non-compliance. The proposed penalty was calculated to be \$16,800, plus \$500 for

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the Department's cost, for a total penalty amount of \$17,300. The District proposes using the administrative penalty amounts under ELRA for all applicable violations pursuant to s. 403.121(2), Florida Statutes (F.S.), rather than matrix amounts where the ELRA penalty is the lesser of the two. Please see the attached penalty calculation worksheets.

Why compliance without enforcement is not an appropriate alternative:

The Department's file on the facility indicates compliance issues at the facility have occurred routinely and systematically throughout its operational history. Of particular concern is that the facility, in a letter to the Department from November 2011, expressed their intent to make changes to the facility that would constitute a major modification to their Used Oil Processor permit, yet they proceeded with these plans without following the formal major modification process and without Department approval. The facility benefited economically from these modifications, because the increased storage capacity allowed for more used oil to be received and processed. The facility had prior knowledge of its permit requirements and the applicable rules, because the facility's previous enforcement case addressed similar compliance issues.

Pursuant to the Hazardous Waste Civil Enforcement Response Policy (December 2003), the Department is required to address all Significant Non-Compliers (SNCs) and Secondary Violators (SVs) with an appropriate enforcement response in accordance with the Response Time Guidelines of this policy. Significant Non-Compliers (SNCs) are those violators that have caused actual exposure or a substantial likelihood of exposure to hazardous waste or hazardous waste constituents; are chronic or recalcitrant violators; or deviate substantially from the terms of a permit, order, agreement or from RCRA statutory or regulatory requirements. In evaluating whether there has been actual or likely exposure to hazardous waste or hazardous waste constituents, EPA and States should consider both environmental and human health concerns. Environmental impact or a substantial likelihood of impact alone is sufficient to cause a violator to be a SNC. Due to the facility's recalcitrant behavior and their history of noncompliance with Department rules and their permit conditions, this facility is a SNC subject to enforcement under RCRA.



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

FACILITY INFORMATION:

Facility Name: Raider Environmental Services

On-Site Inspection Start Date: 10/04/2012

On-Site Inspection End Date: 10/04/2012

ME ID#: 83539

EPA ID#: FLR000143891

Facility Street Address: 4103 NW 132nd St, Opa Locka, Florida 33054-4510

Contact Mailing Address: 4103 NW 132nd St, Opa Locka, Florida 33054-4510

County Name: Miami-Dade

Contact Phone: (305) 994-9949

NOTIFIED AS:

CESQG (<100 kg/month)

Transporter

Used Oil

INSPECTION TYPE:

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

Routine Inspection for Hazardous Waste Transporter facility

Routine Inspection for Used Oil Processor facility

Routine Inspection for Used Oil Transporter facility

Routine Inspection for Used Oil Transfer Facility

Routine Inspection for Used Oil Marketer facility

INSPECTION PARTICIPANTS:

Principal Inspector: Kathy R. Winston, Inspector

Other Participants: Dan Berler, EHS manager

LATITUDE / LONGITUDE: Lat 25° 53' 41.924" / Long 80° 15' 51.6958"

SIC CODE: 4959 - Trans. & utilities - sanitary services, nec

TYPE OF OWNERSHIP: Private

Introduction:

Raider Environmental Services (RES) has been in operation at this location since November of 2008, and currently operates a Used Oil Processing Facility under Department permit #HO13-284932-001, expiration October 13, 2013. RES is a hazardous waste transporter, as well as a transporter, processor, and marketer of used oil and used oil filters. The facility also processes oily water from tank bottoms and ships' bilges. RES is situated in a zoned industrial area and encompasses 1.55 acres. The facility has 40 full time employees and is on city water and sewer.

The facility has four vacuum trucks, one of which is a Vactor, used for dry product such as fly ash. The facility has four tankers, one of which is a 6000-gallon vacuum truck, and the rest of the tankers have 7000-gallon capacities and are used for the transport of both used oil and oily water. The facility has four tractor trailers, one of which is a truck designed for picking up rollofs and the other three are for used oil collection. For hazardous waste transport, the facility uses a box truck and there is also a box trailer, which is generally used for emergency response situations

Process Description:

The original tank farm includes twenty tanks currently and of these, four are being used for storage of used oil. They are tank numbers five, six, seven and sixteen. When the inspector went up on the

Inspection Date: 10/04/2012

walk way above the tank farm, it was observed that some of the tank covers were removed. The facility representative indicated that they were cleaning out the tank bottoms on the ones whose manways had been left open.

It was noted that a whole new secondary containment had been built out in front of the processing building. This containment area consisted of four new 20,000 gallon vertical tanks, which are all being used as holding tanks for process water. This containment was observed to contain a significant amount of oily water. This oily water appeared to have resulted from the storage of the connector hoses, used for loading and unloading trucks, which had not been properly drained before being placed in the containment.

Between the process building and the original tank farm was a sloped area used for loading and unloading trucks and also as a truck wash. On the side of this sloped area that was closest to the tank farm were four open and labeled 55-gallon drums. However, the labels on the drums did not match what was found in the drums. The inspector observed what appeared to be PPE in one drum, oily water in another, filters from the strainers in the third drum and a fourth drum which contained solid waste. Also, inside the process building, near the small table used for lab analysis were two open and unlabeled five-gallon buckets. One appeared to contain oily water and the other used oil.

The facility representative gave the inspector an overview of how both used oil and oily water are processed through the plant. Heat, emulsifiers and caustics are use in the oily water processing, while the used oil is processed using flocculants and acids.

Record Review

The following deficiencies were noted in the facility's Contingency Plan (CP): The phone number of the designate hospital was not included and there was no list of emergency equipment onsite, as well as, no information concerning where this equipment was located or its' capabilities. The training records (certificate of most recent HAZWOPER training and DOT training) for Joey Betancourt, a driver for RES, were not available. The facility's waste analysis plan was not available for review. All other records appeared to be in order and were produced in a timely manner. These documents included: all other requested training records, manifests, acceptance and delivery logs for used oil and hazardous waste, general facility inspection logs, and the permit which included the closure plan.

A file review performed on the facility after the inspection revealed that the facility's permit only allowed for 24,000 gallons of used oil storage and with the use of the four tanks mentioned above; the facility was working with an 87,000 gallon capacity. Also, the use of these tanks would require an adjustment to the facility's financial assurance amount.

New Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	279.52(a)(2)(iii)
Question Number:	28.250
Question:	Is the fire control equipment adequate?
Explanation:	It appeared that the fire extinguishers onsite had not been serviced within the last year.
Corrective Action:	Please provide receipts showing that the fire extinguishers have been serviced within the last year or call for service on the fire extinguishers and provide the receipt from that service to the Department.

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Type: Violation
Rule: 279.52(b)(2)
Question Number: 28.340
Question: Does the plan include the following?
Explanation: The facility's Contingency Plan didn't include a list of the emergency response equipment, their locations, and their capabilities.
Corrective Action: Please provide the Department with a list of emergency response equipment, their locations, and their capabilities. Once you have made the necessary changes to your Contingency Plan, send out the updated pages to your local authorities and provide the the Department with the certified mail receipts.

Type: Violation
Rule: 279.55(b)
Question Number: 28.400
Question: Does the processor have a written analysis plan to describing whether used oil stored at the facility has a total halogen content above or below 1,000 ppm and whether the facility's used oil fuel meets the used oil specification?
Explanation: The facility's could not produce their waste analysis plan at the time of the inspection.
Corrective Action: Please provide the Department with the facility's waste analysis plan.

Type: Violation
Rule: 62-710.600(2)(c)
Question Number: 29.380
Question: Does the facility maintain training records?
Explanation: The facility could not provide up-to-date HAZWOPER and DOT training certificates for Joey Betancourt, who is one of their drivers.
Corrective Action: Please provide the Department with the requested training records for Mr. Betancourt.

Type: Violation
Rule: 62-710.800(2)
Explanation: The facility's original permit indicated that used oil would be stored in tanks eight and nine, which have a combined capacity of 24,000 gallons. However, at the time of the inspection, used oil was being stored in tanks five, six, seven and sixteen, which would give the facility a combined capacity of 87,000 gallons.
Corrective Action: The facility needs to modify the permit to allow for the change in both the tanks that are being used to store used oil and the amount of used oil the facility is allowed to store onsite.

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Type: Violation
Rule: 62-710.800(6)
Explanation: The facility is using three more tanks for storage of used oil than was allowed in the original permit and they have not made an adjustment to their Financial Assurance to account for the closure of these tanks.
Corrective Action: Please update the facility's Financial Assurance to reflect the additional tanks that will need closure when the facility ceases to exist.

Areas of Concern

Type: Area Of Concern
Rule: 279.52(a)(1)
Question Number: 28.210
Question: Is the facility maintained and operated to prevent a fire, explosion or planned or unplanned release of used oil to the air, soil, or water which could threaten human health or the environment?
Explanation: The new containment area, on the opposite side of the processing facility from the old tank farm, was full with oily water. This fluid appeared to have come from connector hoses that were being stored there that hadn't been properly draining after use.
Corrective Action: Please drain this containment area and provide photos to prove compliance. Also, describe what was done with the fluid that was recovered; when the area was pumped dry.

Type: Area Of Concern
Rule: 279.54(f)
Question Number: 28.190
Question: Are ASTs, UST tank fill lines and containers labeled "used oil"?
Explanation: There were four drums sitting alongside of the sloped loading/unloading area whose labels didn't correspond with the actual content of the containers. Also, inside the processing building and next to the lab bench were two five gallon buckets; one of which appeared to have oily water in it and the other whose contents appeared to be used oil.
Corrective Action: Please properly label these four drums and provide the Department with photos demonstrating compliance. Please either remove the two five gallon buckets in the lab bench area or properly label them; send pictures showing the containers are labeled or they have been removed from the area.

Type: Area Of Concern
Rule: 279.52(a)(6)
Question Number: 28.300
Question: Has the facility made emergency response arrangements with the following:
Explanation: The facility did not have the phone number of their designated hospital in their

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Contingency Plan.

Corrective Action: Please add the number of your facility's designated hospital to the emergency phone numbers list in your Contingency Plan.

Conclusion:

An exit interview was conducted at the conclusion of the inspection which addressed the potential violations listed above. The facility was not in compliance at the time of the inspection. The facility was given twenty one days to return to compliance.

Inspection Date: 10/04/2012

Signed:

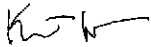
A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62-740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection 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

PRINCIPAL INSPECTOR NAME

Inspector

PRINCIPAL INSPECTOR TITLE**PRINCIPAL INSPECTOR SIGNATURE**

10/4/2012

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.

DRAFT**PENALTY COMPUTATION WORKSHEET**

Facility Name: Raider Environmental Services, Inc.
 Facility Address: 4103 NW 132nd St., Opa Locka, FL 33054

Department Staff Responsible for the Penalty Computations:

Kathy Winston

Karen Kantor

Roger Carman

Date: _____

PART I - Class A Penalty Determinations

	Alleged Violation Type	Potential for Harm	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Economic Benefit Calculation	Total
1	40 CFR Part 279.52(a)(2)(iii) Failure to have required equipment <i>prove no equipment</i>	ELRA 403.121(5) F.S.		\$500				\$500
2	40 CFR Part 279.52(b)(2) <i>Submittal</i> Failure to have adequate Contingency Plan	ELRA 403.121(4)(e) F.S.		\$1,000		\$200 (20% ↑)		\$1,200
3	40 CFR Part 279.55(b) Failure to provide Waste Analysis Plan	ELRA 403.121(4)(d) F.S.		\$2,000				\$2,000
4	Chapter 62-710.600(2)(c) Failure to maintain training records	ELRA 403.121(4)(f) F.S.		\$500				\$500
5	Chapter 62-710.800(2) Failure to operate/modify/close a facility pursuant to a permit	ELRA 403.121(4)(c) F.S.		\$3,000		\$400 (20% ↑)	Not Taken	\$3,600
6	Chapter 62-710.800(6) Failure to have sufficient Financial Assurance	ELRA 403.121(4)(a)		\$5,000	\$3,000 (30 days X \$100)	\$1,000 (20% ↑)		\$9,000
*ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two.							Penalties Subtotal:	\$16,800
							Department Costs:	\$500
							Total:	\$17,300

All penalty calculations are based on the Florida Department of Environmental Protection's "Guidelines for Characterizing Used Oil Violations" revised as of June 28, 2013. Certain violations require Potential for Harm Ranking System characterization and have been utilized where applicable. ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement.

Jill S. Creech, P.E.
 Southeast District Director
 Florida Department of Environmental Protection

Date _____

16800
 offered 2k
 counts 4K + 5
 8K →

DRAFT**ECONOMIC BENEFIT CALCULATION****FACILITY:** Raider Environmental Services, Inc.**VIOLATION:** Chapter 62-710.800(2) - Failure to follow permit conditions

The facility stored used oil in tanks that were not in their permit; therefore, exceeding their allowable storage capacity in violation of their permit conditions. At a minimum, the facility benefitted by not paying the appropriate substantial modification permit fees. Any other factors required to perform the calculation are unknown.

The economic benefit is based on delayed costs, per the DEPs Guidelines for Characterizing RCRA Violations, the RCRA Civil Penalty Policy of June 2003, and the September 10, 2007 Revised Prices for Calculating Economic Benefit. The delayed cost is based on the permit fees required to process a substantial modification to their existing Used Oil Processor permit. The fee for a substantial modification to the permit is \$500, pursuant to Chapter 62-710.800(4), F.A.C.

Avoided Costs (AC) _____ *N/A*

X _____

TOTAL AC \$ _____ -

Delayed Costs (DC) \$ 500.00 *fee for substantial permit modification*

X \$ 1 *one-time fee*

TOTAL DC \$ 500.00

AC(1-T) + DC(I) = ECONOMIC BENEFIT
where T=38%, I=10%

\$0*(1-0.38) + \$500*(.10) = EB

Therefore, \$0 + \$50 = \$50

The economic benefit amount (all violations added together) was compared to the chart on page 28 of the RCRA Civil Penalty Policy Manual. Economic Benefit was not pursued based on the following:

When the gravity-based and multi-day total penalty is:

\$30,000 or less
 \$30,001 to \$49,999
 \$50,000 or more

Economic Benefit should be pursued if it totals:

at least \$3,000
 at least 10% of the proposed penalty
 \$5,000 or more

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PENALTY COMPUTATION WORKSHEET

(continued)

Facility Name: Raider Environmental Services, Inc.
Facility Address: 4103 NW 132nd St., Opa Locka, FL 33054

Part II - Multi-day Penalties and Adjustments

Adjustments:

Good Faith/lack of good Faith prior to Discovery:

Justification:

Dollar Amount:

Good Faith/lack of good Faith after Discovery:

Justification:

History of Non-Compliance:

Justification: An upward adjustment of 20% is applied to Violations # 2 (\$200), #4 (\$600), and #5 (\$1,000) as they are repeat violations from the previous enforcement case in 2011.

\$1,800

Economic Benefit of Non-Compliance:

Justification: Economic Benefit calculation is required for Violation #4. The Economic Benefit amount (all violations added together) was compared to the chart on page 28 of the RCRA Civil Penalty Policy Manual. When the gravity-based and multi-day total penalty is \$30,000 or less, Economic Benefit should be pursued if it totals at least \$3,000. Based on this, Economic Benefit for Violation #4 is not being pursued in this case because it totals \$50.

\$50

Ability to pay:

Justification:

Multi-Day Penalties:

Number of days adjustment factor(s) to be applied:

Justification: In accordance with DEP Directive 923 - Settlement Guidelines for Civil Penalties (revised February 2013) and "Guidelines for Characterizing Used Oil Violations" (revised June 28, 2013), Violation #5 requires the calculation of multiday penalties. DEP Directive 923 indicates that multi-day penalties may be pursued where daily advantage is being gained by the violator for an ongoing violation; or, where the violation is causing daily adverse impacts to the environment and the violator knew or should have known of the violation after the first day it occurred and either failed to take action to mitigate or eliminate the violation or took action that resulted in the violation continuing. Multi-day penalties should be computed by multiplying the appropriate daily penalty calculated or a part thereof by the number of days of noncompliance. For violations that are significantly detrimental to the environment, a penalty amount at the matrix amount should be calculated for the violations that occur after the first day, up to 30 days of non-compliance. For violations that occur for more than 30 days, judgment should be exercised to determine the appropriate penalty amount to be sought for each additional day of non-compliance that occurs over 30 days. For Violation #5, the facility was out of compliance for 174 days after notification from the Department. Based on the guidance of Directive 923, a multi-day penalty amount of \$100 per day for 30 days of noncompliance is recommended (\$3,000).

Dollar Amount:

\$3,000

Number of days matrix amount is to be multiplied:

Justification:

Part III-Other Adjustments Made After Meeting With Responsible Party

Adjustments:

Relative Merits of the Case:

Dollar Amount:

Resource Consideration:

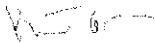
Other Justification:

Jill S. Creech, P.E.
Southeast District Director
Florida Department of Environmental Protection

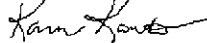
Date

DRAFT**PENALTY COMPUTATION WORKSHEET**Facility Name: Raider Environmental Services, Inc.Facility Address: 4103 NW 132nd St., Opa Locka, FL 33054

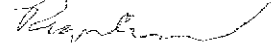
Department Staff Responsible for the Penalty Computations:



Kathy Winston



Karen Kantor



Roger Carman

Date: _____

*Deleted Training Records***PART I - Class A Penalty Determinations**

	Alleged Violation Type	Guidelines for Characterizing Violations	Harm Ranking	Extent of Deviation	Matrix Amount	Multi-day	Adjustments	Economic Benefit Calculation	Total
1	40 CFR Part 279.52(a)(2)(iii) Failure to have required equipment	UO Page 2	ELRA 403.121(5) F.S.		\$500				\$500
2	40 CFR Part 279.52(b)(2) Failure to have adequate Contingency Plan	UO Page 1	ELRA 403.121(4)(e) F.S.		\$1,000		\$200 (20% 25)		\$1,200
3	40 CFR Part 279.55(b) Failure to provide Waste Analysis Plan	UO Page 1	ELRA 403.121(4)(d) F.S.		\$2,000				\$2,000
4	Chapter 62-710.800(2) Failure to operate/modify/close a facility pursuant to a permit	UO Page 1	ELRA 403.121(4)(c) F.S.		\$3,000		\$600 (20% 25)	Not Taken	\$3,600
5	Chapter 62-710.800(6) Failure to have sufficient Financial Assurance	UO page 1	ELRA 403.121(4)(a)		\$5,000	\$3,000 (30 days X \$100)	\$1,000 (20% 25)		\$9,000
*ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two.							Penalties Subtotal: \$16,300		
							Department Costs: \$500		
							Total: \$16,800		

All penalty calculations are based on the Florida Department of Environmental Protection's "Guidelines for Characterizing Used Oil Violations" revised as of June 28, 2013. Certain violations require Harm Ranking System characterizations and have been utilized where applicable. ELRA Penalty equivalents were applied rather than matrix amounts where it was the lesser of the two. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement.

Jill S. Creech, P.E.
Southeast District Director
Florida Department of Environmental Protection

Date _____