

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

STATE OF FLORIDA DEPARTMENT OF
OF ENVIRONMENTAL PROTECTION

IN THE OFFICE OF THE
NORTHEAST DISTRICT

Complainant,

OGC FILE NO. 19-0119
[EPA ID. NO. FLR 093 598 548]

vs.

NORTH FLORIDA SHIPYARDS, INC.
Respondent.

_____ /

CONSENT ORDER

This Consent Order (“Order”) is entered into between the State of Florida Department of Environmental Protection (“Department”) and North Florida Shipyards, Inc. (“Respondent”) to settle certain matters at issue between the Department and Respondent.

The Department finds and the Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to protect Florida’s air and water resources and to administer and enforce the provisions of Chapters 376 and 403, Florida Statutes, and the rules promulgated in Chapters 62-710, 62-730, and 62-737, Florida Administrative Code (“F.A.C.”). The Department has jurisdiction over the matters addressed in this Order.

2. Respondent, North Florida Shipyards, Inc., is a for-profit Florida corporation, registered to do and doing business in the state of Florida, with its principal place of business located at 2060 East Adams Street, Jacksonville, FL 32202. Respondent operates an industrial shipyard enterprise, which includes repairing and overhauling commercial, private and military ships, located on East Adams Street, in Jacksonville, Florida (“Facility”).

3. Commodores Point Properties, Limited (“Commodores Point”), is a Florida Limited Partnership, registered to do and doing business in Florida, with its principal place of business located at 1010 East Adams Street, Jacksonville, Florida 32202. Commodores Point is the record owner of the Properties upon which the Facility is located on East Adams Street in

Jacksonville, Florida, and further identified by Duval County Property Appraiser Parcel ID numbers 130563-0010, 130611-0000 and 130631-0000.

4. Industrial shipyard activities conducted by Respondent at the Facility include blasting and painting, machining, stripping, welding and other hot work. Respondent also performs equipment and facilities maintenance at the Facility. Waste generated from these processes may include hazardous wastes, universal wastes, used oil, used oil filters, oily waste water and waste water.

5. Respondent is a “person” within the meaning of Sections 403.031(5) and 403.703(23).

6. Respondent is a “facility” as defined in Rule 62-730.020, F.A.C.

7. Respondent is an “operator” as defined in Rule 62-730.020, F.A.C.

8. It is unlawful for any facility owner or operator to fail to comply with Department statutes and rules pursuant to Section 403.727, F. S.

9. On June 27, 2018, the Department conducted a hazardous waste compliance inspection at the Facility. During the inspection, Department staff observed several compliance issues, including but not limited to, failure to label drums as “used oil;” accumulation of hazardous waste for longer than 90 days; failure to label drums as “hazardous waste;” failure to respond to a spill of spent diesel fuel and a spill of spent blast media; failure to have secondary containment for drums and totes of used oil; failure to maintain adequate aisle space within the Hazardous Waste Accumulation Area; failure to make a hazardous waste determination on waste streams; and failure to possess required equipment in the Hazardous Waste Accumulation Area.

10. On December 12, 2018, the Department issued Warning Letter WL18-171, which included the Hazardous Waste Inspection Report, to Respondent following the compliance inspection. Respondent’s operations at the Facility are described in the Hazardous Waste Inspection Report, which is attached to and incorporated in this Order as Exhibit “A.”

11. During the inspection, the Department found that Respondent failed to comply with the following rules:

- a) Title 40 Code of Federal Regulations (“40 CFR”) 279.22(c) – Used Oil Labels;
- b) 40 CFR 262.17(a)(5)(i)(C) – Hazardous Waste Container Accumulation Dates;
- c) Rule 62-730.160(4), F.A.C. – Hazardous Waste Container Aisle Space;
- d) 40 CFR 262.17(a) – Hazardous Waste Accumulation;
- e) 40 CFR 262.17(a)(5)(i)(A) – Hazardous Waste Container Labels;
- f) 40 CFR 279.22(d) – Used Oil Releases;
- g) 40 CFR 262.15(a)(4) – Hazardous Waste Satellite Container Requirements;
- h) 40 CFR 262.15(a)(5) – Hazardous Waste Satellite Container Labels;
- i) 40 CFR 273.13(d)(1) – Universal Waste Container Requirements;
- j) 40 CFR 273.14(e) – Universal Waste Container Labels;
- k) Rule 62-710.401(6), F.A.C. – Used Oil Container Management;
- l) 40 CFR 262.42(a)(2) – Hazardous Waste Manifest Requirements;
- m) 40 CFR 262.20(a) – Hazardous Waste Management;
- n) 40 CFR 262.11 – Hazardous Waste Determination;
- o) 40 CFR 262.251 – Hazardous Waste Facility Maintenance and Operation;
- p) 40 CFR 273.15(c) – Universal Waste Accumulation; and
- q) 40 CFR 262.252(c) – Hazardous Waste Accumulation Area Required Equipment.

12. Based upon corrective actions taken by Respondent during the inspection on June 27, 2018, and the Department’s review of documents submitted to the Department by Respondent on July 19, 2018, March 5, 2019, April 9, 2019, and April 29, 2019, the Department found Respondent had come into compliance with the following rules:

- a) 40 CFR 279.22(c);
- b) 40 CFR 262.17(a)(5)(i)(C);
- c) Rule 62-730.160(4), F.A.C.;
- d) 40 CFR 262.17(a);
- e) 40 CFR 262.17(a)(5)(i)(A);

- f) 40 CFR 279.22(d);
- g) 40 CFR 262.15(a)(4);
- h) 40 CFR 262.15(a)(5);
- i) 40 CFR 273.13(d)(1);
- j) 40 CFR 273.14(e);
- k) Rule 62-710.401(6), F.A.C.;
- l) 40 CFR 262.42(a)(2);
- m) 40 CFR 262.20(a);
- n) 40 CFR 262.251;
- o) 40 CFR 273.15(c); and
- p) 40 CFR 262.252(c).

13. As of the date of this Order, Respondent has failed to comply with the following rule:

- a) 40 CFR 262.11.

Having reached a resolution of the matter, Respondent and the Department mutually agree and it is

ORDERED:

14. Respondent shall complete the corrective actions outlined below within the timeframes established therein:

(a) Respondent shall immediately cease all discharges from the Facility to the ground or surface waters of the state that are reasonably expected to cause a violation of the Department's water quality minimum criteria and standards.

(b) Within **45 days** of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

(c) Within **90 days** of the effective date of this Order, Respondent shall provide the Department a copy of the waste determination for the compressed gas cylinders

observed in the Tool Room area.

(d) Within **30 days** of the effective date of this Order, Respondent shall pay the Department \$43,281.00 in settlement of the matters addressed in this Order. This amount includes civil penalties assessed in the amount of \$42,781.00, for the violations outlined in this Order, plus \$500.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The total penalties assessed for the violations contained in this Order include eight (8) violations of \$2,000.00 or more. Should Respondent fail to submit any installment payment timely, the Department, at its discretion, may accelerate the remaining balance to become immediately due. The payment schedule and amounts are as follows:

Payment	Due Date	Amount Due
Initial payment	Within 30 days of effective date of Consent Order	\$5,411.00
2 nd payment	90 days after initial payment	\$5,410.00
3 rd payment	90 days after 2 nd payment	\$5,410.00
4 th payment	90 days after 3 rd payment	\$5,410.00
5 th payment	90 days after 4 th payment	\$5,410.00
6 th payment	90 days after 5 th payment	\$5,410.00
7 th payment	90 days after 6 th payment	\$5,410.00
8 th (final) payment	90 days after 7 th payment, <i>But no later than 2 years after effective date of this Consent Order.</i>	\$5,410.00
	TOTAL:	\$43,281.00.

(e) **Within 15 days of the effective date of this Consent Order**, Respondent may elect to implement either an In-Kind Penalty Project or a Pollution Prevention (P2) Project, which must be approved by the Department, in lieu of submitting payment of \$42,781.00 of the civil penalties assessed in Paragraph 14(d) herein, and shall notify the Department of its election, in writing, by certified mail or by e-mail to the Department’s District Office listed in Paragraph 17 of this Order. Should Respondent elect to implement either an In-Kind Penalty

Project or a P2 Project, then Respondent shall comply with all requirements and time frames set out below under the respective Project description. Electing to implement either an In-Kind Penalty Project or a P2 Project, does not relieve Respondent of its obligation to submit payment in the amount of \$500.00, for costs and expenses incurred by the Department associated with this Order, within the timeframe set out in Paragraph 14(d) herein.

1. In-Kind Project Requirements

Respondent make elect to off-set the civil penalties in amount of \$42,781.00 by implementing an In-Kind Penalty Project, which must be approved by the Department. An In-Kind Project must be either an environmental enhancement, environmental restoration or a capital/facility improvement project. The Department may also consider the donation of environmentally sensitive land as an in-kind project. The value of the in-kind penalty project shall be one and a half times the civil penalty off-set amount, which would be at least \$64,172.00, in this matter. Should Respondent elect to implement an in-kind project, then Respondent shall comply with all requirements and time frames set out below.

(i) Within 30 days of the effective date of this Order, submit payment in the amount of \$500.00 for Department costs and expenses;

(ii) Within 60 days of the effective date of this Order, or, of receipt of written notification from the Department that applying stipulated penalties to an In-Kind Penalty Project is acceptable, Respondent shall submit, by certified mail, a detailed In-Kind Penalty Project proposal to the Department for evaluation and approval. The proposal shall include a summary of benefits, proposed schedule for implementation and documentation of the estimated costs which are expected to be incurred to complete the project. These costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the In-Kind Penalty Project.

(iii) If the Department requests additional information or clarification due to a partially incomplete In-Kind Penalty Project proposal, or requests modifications to the proposal due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and modifications within 15 days of receipt of written notice from the Department.

(iv) If upon review of the In-Kind Penalty Project proposal, the Department determines that the project cannot be accepted due to a substantially incomplete

proposal or due to substantial deficiencies with minimum Department guidelines, Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the proposal. Respondent shall correct and redress all of the matters at issue and submit, by certified mail, a new proposal within 30 days of receipt of written notice from the Department. In the event that the revised proposal is not approved by the Department, Respondent shall submit payment of the civil penalties as set forth in Paragraph 14(d) above, within 30 days of Department notice.

(v) Within 120 days of the effective date of this Order, or, of the Department's notification that applying stipulated penalties to an In-Kind Penalty Project is acceptable, Respondent shall obtain approval for an In-Kind Penalty Project from the Department. If an In-Kind Penalty Project proposal is not approved by the Department within 120 days of the effective date of this Consent Order, or, of the Department's notification that applying stipulated penalties to an In-Kind Penalty Project is acceptable, then Respondent shall submit payment of the civil penalties as set forth in Paragraph 14(d) above, within 30 days of receipt of the Department's notice.

(vi) Within 180 days of obtaining Department approval for the In-Kind Penalty Project proposal, or in accordance with the approved schedule submitted pursuant to Paragraph 14(e)1.(ii) above, Respondent shall complete the entire In-Kind Penalty Project.

(vii) During the implementation of the In-Kind Penalty Project, Respondent shall place appropriate sign(s) at the project site indicating that Respondent's involvement with the project is the result of a Department enforcement action. Respondent may remove the sign(s) after the project has been completed. However, after the project has been completed Respondent shall not post any sign(s) at the site indicating that the reason for the project was anything other than a Department enforcement action.

(viii) In the event, Respondent fails to timely submit any requested information to the Department, fails to complete implementation of the In-Kind Penalty Project, or otherwise fails to comply with any provision of this paragraph, the In-Kind Penalty Project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent within 30 days of Department notice. If the In-Kind Penalty Project is terminated and Respondent timely remits the \$42,781.00 penalty, Respondent shall not be assessed the additional stipulated penalties set out in Paragraph 15 of this Order.

(ix) Within 15 days of completing the In-Kind Penalty Project, Respondent shall notify the Department, by certified mail, of the project completion and request a verification letter from the Department. Respondent shall submit supporting information verifying that the project was completed in accordance with the approved proposal and documentation showing the actual costs incurred to complete the project. These

costs shall not include those incurred in developing the proposal or obtaining approval from the Department for the project.

(x) If upon review of the notification of completion, the Department determines that the project cannot be accepted due to a substantially incomplete notification of completion or due to substantial deviations from the approved In-Kind Penalty Project, Respondent shall be notified, in writing, of the reason(s) which prevent the acceptance of the project. Respondent shall correct and redress all of the matters at issue and submit, by certified mail, a new notification of completion within 15 days of receipt of the Department's notice. If upon review of the new submittal, the Department determines that the In-Kind Penalty Project is still incomplete or not in accordance with the approved proposal, the In-Kind Penalty Project option shall be forfeited, and the entire amount of civil penalties shall be due from the Respondent within 30 days of Department notice. If the In-Kind Penalty Project is terminated and Respondent timely remits the \$42,781.00, Respondent shall not be assessed the additional stipulated penalties set out in Paragraph 15 of this Order.

2. Pollution Prevention (P2) Project Requirements

Respondent make elect to off-set the civil penalties in amount of \$32,086.00 by implementing a P2 Project, which must be approved by the Department. A P2 Project is a process improvement that reduces the amount of pollution that enters the environment; by conserving resource (including water, raw materials, chemicals, and energy) use, or by minimizing waste generation (including domestic and industrial wastewater, solid and hazardous waste, and air emissions). A P2 Project must reduce pollution or waste within the process beyond what is required by federal, state, or local law, in order to be eligible for civil penalty offset under this Order. If Respondent elects to implement a P2 Project, Respondent shall:

(i) Within **30 days** of the effective date of this Order, submit payment, in full, in the amount of \$11,195.00 (\$10,695.00 for the remaining civil penalties, and \$500.00 for costs and expenses);

(ii) Within **30 days** of the effective date of this Order, submit a completed P2 Project Plan (Plan) to the Department, using the "P2 Project Plan" Template as shown in Exhibit B;

(iii) If the Department requests additional information or clarification, or requests modifications to the Plan due to deficiencies with Department guidelines, Respondent shall submit, by certified mail, all requested additional information, clarification, and/or

modifications within 15 days of receipt of written notice from the Department;

(iv) If any balance remains after the entire P2 Project credit is applied to the allowable portion of the civil penalty, Respondent shall submit payment of the difference amount, within 30 days of receipt of written notification by the Department of the balance due.

(v) The Department may terminate the P2 Project at any time during the development or implementation of it, if the Respondent fails to comply with the requirements in this document, act in good faith in preparing and implementing the project, or develop and implement the P2 Project in a timely manner. The Respondent may terminate the P2 Project at any time during its development or implementation.

15. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day, for each and every day Respondent fails to timely comply with any of the requirements of Paragraphs 14(a)-(c), 14(e) and 31 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order. Any stipulated penalties assessed under this Paragraph shall be in addition to the civil penalties agreed to in Paragraph 14(d) of this Order. Within 30 days of written demand from the Department, Respondent shall submit payment of the appropriate stipulated penalties in accordance with Paragraph 16 herein. The Department may make demand for payment at any time after violations occur. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any of the terms of this Order. Should the Department be required to initiate a lawsuit to recover stipulated penalties under this Paragraph, the Department shall not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties set out in this Paragraph.

16. All payments required by this Order shall be made by cashier's check, money order or on-line "e-check" payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include both the OGC number (19-0119) assigned to this Order and the notation "*Water Quality Assurance Trust Fund.*" Payment shall be sent to the Department of Environmental Protection, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. Online payments by e-check can be made at the Department's Business Portal: <http://www.fldepportal.com/go/pay/>. Please note it will

take a number of days after this Order becomes final, effective and filed with the Clerk of the Department before ability to make online payment is available.

17. Except as otherwise specifically provided, all submittals required by this Order shall be sent to: Florida Department of Environmental Protection, Attn: Hazardous Waste Subject Matter Expert, Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256 (e-mail: Cheryl.L.Mitchell@FloridaDEP.gov); and shall include both the Facility ID number (FLR 093 598 548) and OGC number (19-0119) assigned to this Order.

18. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

19. Respondent shall use all reasonable efforts to obtain any necessary access for work to be performed in the implementation of this Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five (5) business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorneys' fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access as is necessary to implement the terms of this Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

20. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay, in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of the Respondent and could not have been or cannot be overcome by Respondent's due diligence. Economic circumstances shall not be considered circumstances beyond the control of

Respondent, nor shall the failure of a contractor, subcontractor, materialman or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines be a cause beyond the control of Respondent, unless the cause of the contractor's late performance was also beyond the contractor's control. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department orally within 24 hours or by the next working day. In addition, Respondent shall notify the Department in writing within seven (7) calendar days of oral notification, as to: (i) the anticipated length and cause of the delay; (ii) the measures taken or to be taken to prevent or minimize the delay; and (iii) the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended for a period equal to the agreed delay resulting from such circumstances. The agreement to extend compliance must adopt all reasonable measures necessary to avoid or minimize delay and identify the provision(s) extended, the new compliance date(s), any additional measure(s) Respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance with the requirements of this Order.

21. The Department, for and in consideration of the complete and timely performance by Respondent of the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations outlined in this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

22. Respondent acknowledges and waives their right to an administrative hearing pursuant to Sections 120.569 and 120.57, Florida Statutes, on the terms of this Order. Respondent acknowledges their right to appeal the terms of this Order pursuant to Section 120.68, Florida Statutes, and waives that right upon signing this Order.

23. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities, which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state or local laws, regulations or ordinances.

24. The Department hereby expressly reserves the right to initiate appropriate legal action to prevent or prohibit any violations of applicable statutes or the rules promulgated there-under that are not specifically addressed by the terms of this Order, including but not limited to undisclosed releases, contamination or polluting conditions.

25. Nothing herein shall be construed to limit the authority of the Department to undertake any action against Respondent in response to or to recover the costs of responding to conditions at or from the site that require Department action to abate an imminent hazard to the public health, welfare or the environment.

26. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to Sections 120.69 and 403.121, F.S. Failure to comply with the terms of this Order shall constitute a violation of Section 403.161(1)(b), F.S.

27. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$10,000 per day per violation, and criminal penalties.

28. Electronic signatures or other versions of the parties' signatures, such as .pdf or facsimile, shall be valid and have the same force and effect as originals.

29. No modifications of the terms of this Order shall be effective until reduced to writing and executed by both the Respondent and the Department.

30. This Order is a final order of the Department pursuant to Section 120.52(7), F.S., and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with Chapter 120, F.S. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

31. Respondent shall publish the following notice in a newspaper of daily circulation in Duval County, Florida. The notice shall be published one time only within 30 days after the effective date of the Order by the Department. Respondent shall submit a certified copy of the published notice to the Department within 10 days of publication in accordance with Paragraph 17 herein.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with North Florida Shipyards, Inc., pursuant to Section 120.57(4), Florida Statutes. The Consent Order addresses hazardous waste, universal waste and used oil violations at the North Florida Shipyards, Inc. Facility located on East Adams Street, Jacksonville, FL 32202. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256.

Persons who are not parties to this Consent Order, but whose substantial interests are affected by it, have a right to petition for an administrative hearing under Sections 120.569 and 120.57, Florida Statutes. Because the administrative hearing process is designed to formulate final agency action, the filing of a petition concerning this Consent Order means that the Department's final action may be different from the position it has taken in the Consent Order.

The petition for administrative hearing must contain all of the following information:

- (a) The OGC Number (19-0119) assigned to this Consent Order;
- (b) The name, address, telephone number, and e-mail address (if any) of each petitioner;
- (c) The name, address, telephone number, and e-mail address of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- (d) An explanation of how the petitioner's substantial interests will be affected by the Consent Order;
- (e) A statement of when and how the petitioner received notice of the Consent Order;
- (f) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;

(g) A statement of the specific facts the petitioner contends warrant reversal or modification of the Consent Order;

(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.

The petition 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 at Northeast District Office, 8800 Baymeadows Way West, Suite 100, Jacksonville, Florida, 32256. Failure to file a petition within the 21-day period constitutes a person's waiver of the right to request an administrative hearing and to participate as a party to this proceeding under Sections 120.569 and 120.57, Florida Statutes. 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Consent Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right to request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, Florida Statutes, and Rule 62-110.106(12), Florida Administrative Code.

32. Copies of Department rules referenced in this Order may be examined at any Department Office or may be obtained by written request to the District Office referenced in Paragraph 17 above. The rules referenced in this Order are also available at <https://floridadep.gov/ogc/ogc/content/rules>.

33. The undersigned certifies that it is authorized and empowered to negotiate, enter into and execute, in the name and on behalf of the Respondent, NORTH FLORIDA SHIPYARDS, INC., any agreements, documents, instruments, certificates, including and without limitation, this Consent Order entered into between the State of Florida Department of Environmental Protection and NORTH FLORIDA SHIPYARDS, INC.

FOR THE RESPONDENT: NORTH FLORIDA SHIPYARDS, INC.

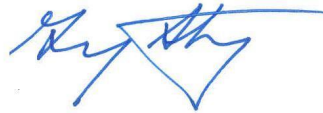
7/18/2019

Date


Mr. Matthew J. Self
President

DONE AND ORDERED this 18th day of July 2019, in Duval County, Florida.

STATE OF FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION



Gregory J. Strong
Northeast District Director

Filed, on this date, pursuant to Section 120.52, F.S., with the designated Department Clerk, receipt of which is hereby acknowledged.



Clerk

July 18, 2019

Date

Attachments: Exhibit A, Warning Letter WL18-171 and Hazardous Waste Inspection Report
Exhibit B, Pollution Prevention (P2) Project Plan Template

Final clerked copy furnished to:

Lea Crandall, Agency Clerk (lea.crandall@floridadep.gov)

Ron Hoenstine, Assistant General Counsel-Litigation (ronnie.w.hoenstine@floridadep.gov)

Arlene Wilkinson (arlene.wilkinson@floridadep.gov)

Exhibit A



FLORIDA DEPARTMENT OF Environmental Protection

Northeast District
8800 Baymeadows Way West, Suite 100
Jacksonville, Florida 32256

Rick Scott
Governor

Carlos Lopez-Cantera
Lt. Governor

Noah Valenstein
Secretary

December 12, 2018

Sent electronically to: mself@nfsy.net

Matthew Self, President
North Florida Shipyards, Inc.
2060 E. Adams Street
Jacksonville, Florida 32202

**RE: Warning Letter WL18-171
North Florida Shipyards, Inc.
EPA/DEP ID: FLD 093 598 548
Duval County – Hazardous Waste**

Dear Mr. Self:

A hazardous waste compliance inspection was conducted at your facility on June 27, 2018. During this inspection, possible violations of Chapters 376 and 403, Florida Statutes (Fla. Stat.); and Chapters 62-710, 62-730, and 62-737, Florida Administrative Code (Fla. Admin. Code), were observed.

During the inspection, Department personnel noted the following:

- The facility did not properly label two drums of used oil as “Used Oil.”
- The facility did not date six drums of hazardous waste with the start date of accumulation.
- The facility did not maintain adequate aisle space between containers of hazardous waste.
- The facility accumulated hazardous waste for longer than 90 days.
- The facility did not properly label one drum of hazardous waste as “Hazardous Waste.”
- The facility did not respond to three used oil releases.
- The facility did not keep three satellite drums of hazardous waste closed.
- The facility did not label three satellite drums of hazardous waste as “Hazardous Waste.”
- The facility did not keep one drum of universal waste bulbs closed.
- The facility did not label one drum of universal waste bulbs.
- The facility did not have secondary containment for eleven drums and four totes of used oil. The facility did not keep one tote of used oil closed.
- The facility did not have a signed return copy for a hazardous waste manifest, and had not filed an exception report for this shipment of hazardous waste.

- The facility managed hazardous waste as non-hazardous waste and evaporated hazardous waste.
- The facility did not make a hazardous waste determination on five waste streams.
- The facility did not respond to a spill of spent diesel fluid or a spill of spent blast media.
- The facility did not date one drum of universal waste bulbs with the start date of accumulation.
- The facility did not have all the required equipment in two hazardous waste accumulation areas.

Violations of Florida Statutes or administrative rules may result in liability for damages and restoration, and the judicial imposition of civil penalties, pursuant to Sections 403.121 and 376.121, Florida Statutes.

Please contact Luke S. Lewis at (904) 256-1660, or email at Luke.S.Lewis@FloridaDEP.gov within **15 days** of receipt of this Warning Letter to arrange a meeting to discuss this matter. The Department is interested in receiving 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.

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 resolving this matter as soon as possible.

Sincerely,



Gregory J. Strong
District Director

Attachment: Final Inspection Report
cc: Commodore's Point Properties, 1010 East Adams Street, Jacksonville, FL 32202



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

FACILITY INFORMATION:

Facility Name: North Florida Shipyards Inc
On-Site Inspection Start Date: 06/27/2018 **On-Site Inspection End Date:** 06/27/2018
ME ID#: 51177 **EPA ID#:** FLD093598548
Facility Street Address: 2060 E Adams St, Jacksonville, FL 32202-1212
Contact Mailing Address: 2060 E Adams St, Jacksonville, FL 32202
County Name: Duval **Contact Phone:** (904) 354-3278

NOTIFIED AS:

LQG (>1000 kg/month)

INSPECTION TYPE:

Routine Inspection for LQG (>1000 kg/month) facility
Routine Inspection for Used Oil Generator facility

INSPECTION PARTICIPANTS:

Principal Inspector: Luke S Lewis, Inspector
Other Participants: Eddie L Avery, Safety Director

LATITUDE / LONGITUDE: Lat 30° 19' 16.509" / Long 81° 37' 36.7523"

SIC CODE: 3731 - Manufacturing - ship building and repairing

TYPE OF OWNERSHIP: Private

Introduction:

North Florida Shipyards, Inc. (NFSY) was inspected on June 27, 2018 as an unannounced hazardous waste compliance inspection. This facility re-notified the Department of Environmental Protection (DEP) as a Large Quantity Generator (LQG) of hazardous waste on February 20, 2014. This facility was last inspected by the DEP's Hazardous Waste Program on September 17, 2013. The facility is on city water and sewer. Eddie L. Avery (Safety Director), and Pam Fellabaum (DEP) were present throughout the inspection.

At the time of the current inspection, the facility was operating as an LQG of hazardous waste.

The facility overhauls and repairs commercial, private and military ships and, depending on its contract status, the facility may have 100 to 300 employees. The facility operates two shifts Monday through Thursday, one shift Friday through Sunday, and has been at this location since 1970. The facility is located on property that is owned by Commodore's Point Properties of Jacksonville, Florida.

NFSY consists of a Shipping and Receiving Building, a Maintenance Shop/Old Blast House, a Drydock/Dock and three large Warehouses. Warehouse A contains a Tool Room and Fabrication Shop; Warehouse B contains a Machine Shop, a Paint Shop, an Electrical Shop and a Lagging Shop; and Warehouse C contains a Dry Dock Department, a Storage Area, a Pipe Shop and a Carpentry Shop. The facility also has an on-site Wastewater Treatment Plant for pre-treatment of wastewaters generated by operational processes at the facility.

Process Description:

SHIPPING AND RECEIVING BUILDING

This building serves as the shipping and receiving area for the entire facility. The building is located south of East Adams Street. The building contains products that are used throughout the entire facility. This building also has a gated and locked 90-Day Hazardous Waste Accumulation Area (HWAA). Hazardous waste generated from around the facility, such as liquid and solid paint hazardous waste, punctured aerosol can

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hazardous waste, hydrochloric acid hazardous waste and other hazardous wastes, are brought here to be managed and shipped out by a transporter.

Non-hazardous waste is accumulated outside of the gated and locked HWAA. There were twenty-one 55-gallon drums of non-hazardous waste accumulating. These included four drums of non-hazardous oily water, three drums of used oil, seven drums of non-hazardous oily rags, one drum of non-hazardous AFFF rags, five drums of non-hazardous oily waste, and one drum of non-hazardous grit labeled "PENDING ANALYSIS 1/28/18." Two of the three drums of used oil were not labeled as "Used Oil" (Photo 1) [40 CFR 279.22(c)].

Outside of the gated and locked HWAA there were also eighteen 55-gallon drums of hazardous waste accumulating (Photos 2 and 3). These included three drums of solid paint hazardous waste, four drums of liquid paint hazardous waste, seven drums of solid hazardous waste and four drums of liquid hazardous waste. One drum of solid hazardous waste and one drum of liquid hazardous waste were not dated with the start date of accumulation (Photos 4 and 5) [40 CFR 262.17(a)(5)(i)(C)]. There was adequate aisle space for the inspection of each container of hazardous waste in this area.

Inside of the gated and locked HWAA there were 49 containers of hazardous waste accumulating. There were two drums of hazardous waste crushed fluorescent bulbs, 28 drums of solid hazardous waste, 15 drums of liquid hazardous waste, one drum of hazardous waste fuel, two drums of unspecified hazardous waste and one poly overpack drum containing a 55-gallon drum of acid hazardous waste.

The HWAA was very crowded and there was not adequate aisle space for the inspection of each container of hazardous waste (Photos 6 and 7) [62-730.160(4), FAC]. Both drums of the hazardous waste crushed fluorescent bulbs, 15 drums of solid hazardous waste, 12 drums of liquid hazardous waste, the drum of hazardous waste fuel, one drum of unspecified hazardous waste and the overpack drum of acid hazardous waste had been accumulating for longer than 90 days (Photos 8 through 12) [40 CFR 262.17(a)]. The oldest drum to accumulate for longer than 90 days was one drum of liquid hazardous waste dated January 23, 2018. The second drum of unspecified hazardous waste was not labeled [40 CFR 262.17(a)(5)(i)(A)] and not dated with the start date of accumulation [40 CFR 262.17(a)(5)(i)(C)]. All of the other drums were labeled and dated.

The HWAA had all of the required equipment including an eyewash station, a fire extinguisher and a spill kit. There was also a sign with the words "No Smoking" posted in the area.

In another section of the Shipping and Receiving Building there were five 55-gallon drums of waste accumulating. Three of the drums were non-hazardous oil boom, and two of the drums were solid hazardous waste. All five of the drums were closed, properly labeled and dated. Facility representatives stated the drums had very recently been moved to the building and were waiting to be moved to the HWAA. Because these were drums that should have been moved into the HWAA, the area only had some of the required equipment including a fire extinguisher, but no eyewash station or spill kit [40 CFR 262.252(c)].

Outside of this building is where ships are moved by cranes and other vehicles to be set up on stilts for maintenance and repair work. Wastes generated in this area are taken to the HWAA described above.

MAINTENANCE SHOP / OLD BLAST HOUSE

This building is located on the southern section of the property. Blasting of ship parts with Black Beauty abrasive previously occurred in this building. The blast collection equipment was still in place. Subsequent to the last inspection in 2013, the waste was analyzed by the facility through a Toxicity Characteristic Leaching Procedure (TCLP) analysis and was determined to be non-hazardous. Subsequent to the TCLP, the facility cleaned, removed and properly managed all of the waste from the equipment.

The Maintenance Shop has been relocated to the Old Blast House. In this service area, cranes, equipment and vehicles are maintained and repaired. The shop consists of a service area and a containment area. Outside of the shop, radiators are tested in a large tub of water. During the inspection, facility technicians were draining water from the large tub onto the ground. The tub contained water with what appeared to be an oily sheen on top. This is a release of used oil (Photos 13 through 16) [40 CFR 279.22(d)].

The shop generates used oil, used oil filters, spent aerosol cans, shop rags, parts washer sludge, spent blast media and spent antifreeze. Used oil is drained from equipment and vehicles into 5-gallon containers or drain

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pans and accumulated in a poly tote located within secondary containment. The tote was properly labeled with the words "Used Oil." Adjacent to this tote, there were six drums of used oil that were not located within secondary containment (Photo 17) [62-710.401(6), FAC]. These drums were properly labeled with the words "Used Oil."

Drained used oil filters are accumulated in one 55-gallon drum. This drum was properly labeled, and it was located on a spill pallet.

On the same spill pallet, there was one 55-gallon satellite drum of aerosol can liquid hazardous waste accumulating. This drum was properly labeled, but the drum's can puncturing device was open (Photo 18) [40 CFR 262.15(a)(4)].

All shop rags are managed as non-hazardous oily rags. There was one 55-gallon metal drum of spent shop rags accumulating. In this shop, Johnsen's Carb & Choke Cleaner (Cleaner) is used as a cleaner. Cleaner consists of 30-50% acetone, 10-30% methanol and 10-30% toluene. Spent Cleaner generates an F005 hazardous waste. According to facility technicians, spent rags with Cleaner are managed as non-hazardous oily rags. Rags with spent Cleaner should be managed in closed, properly labeled containers and shipped off-site as an F005 hazardous waste [40 CFR 262.20(a)].

The shop also has a diesel parts washer. Waste diesel sludge removed from the parts washer is added to the shop's used oil containers on an as needed basis, according to facility representatives.

The shop has one self-contained glove box blasting unit that uses silica blast media. There was spent blast media on the shop floor underneath the unit (Photo 19). The facility did not have analytical data for the spent blast media at the time of the inspection. Subsequent to the inspection, the facility had a Toxicity Characteristic Leaching Procedure (TCLP) analysis performed on the spent blast media and determined it was non-hazardous.

The shop manages its spent antifreeze with its used oil, according to facility technicians. Spent antifreeze cannot be mixed with used oil, and then disposed of unless both are properly recycled. The facility did not make a hazardous waste determination on the spent antifreeze [40 CFR 262.11].

DRY DOCK / DOCK

The Dock is where ships are docked so that equipment, personnel, and vehicles can be moved and positioned alongside them to perform work. On the Dock was one metal recycling roll-off dumpster and several solid waste roll-off dumpsters. Inside the metal recycling dumpster was a large engine that appeared to be leaking used oil into the dumpster. The liquid was leaking from the dumpster onto the Dock's paved ground (Photos 20 through 22) [40 CFR 279.22(d)]. There were two drums of waste observed in one of the solid waste dumpsters. The facility had no analysis for these two drums and, as a result, did not make a hazardous waste determination on this waste stream [40 CFR 262.11].

A large floating Dry Dock is used to lift ships from the water so that repairs can be made to the hull and other components that reside below the water line. Water may be used to blast the ship's hull. The water is collected in a sump, and then it will be taken for treatment to the Wastewater Treatment Plant described below. At the time of the inspection, the Dry Dock was in use. On the Dry Dock, at the ship's stern, there were three 55-gallon drums of hazardous waste accumulating. Two drums were solid hazardous waste. Both were closed, properly labeled and dated. The third drum, a satellite accumulation drum, of unspecified hazardous waste was closed, but it was not labeled [40 CFR 262.15(a)(5)]. This area did not have any of the required equipment such as an eyewash station, a fire extinguisher or a spill kit [40 CFR 262.252(c)]. At the ship's bow, there were two 55-gallon drums of non-hazardous waste accumulating.

WAREHOUSE A

Warehouse A is located in the southern section of the property. This warehouse contains the Tool Room and the Fabrication Shop.

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Tool Room

Tools used in the Fabrication Shop and throughout the facility are stored here. No hazardous waste is generated in this area; however, numerous compressed gas cylinders were observed (Photo 23). According to facility personnel, these cylinders are not usable and have been in this area for a very long time. Because these cylinders are a waste, and have been here for an extended amount of time, a hazardous waste determination should have been made on the compressed gas cylinders and the cylinders managed appropriately [40 CFR 262.11].

Fabrication Shop

This shop fabricates ship parts, such as flooring, hulls and other metal components. Various drills, grinders, lathes and other machines are used in the fabrication process. Minor amounts of welding are also performed in this area. Scrap metal from the fabrication and welding process is managed as scrap metal. Blasting and painting are performed in the Fabrication Shop's Blast and Paint Booths described below.

Fabrication Shop Blast Booth:

The blast media used in this booth is steel shot. There was one unlabeled garbage can of paint chips and a hopper with spent blast media observed in this area. The facility did not have analyses for the paint chips or spent blast media at the time of the inspection. Subsequent to the inspection, the facility managed the paint chips as solid paint hazardous waste and had a TCLP analysis performed on the spent blast media. It was determined to be non-hazardous.

Fabrication Shop Paint Booth:

After the parts are blasted, they are painted in this paint booth. Spent paint booth filters are taken to the HWAA and managed as hazardous waste. There was one 55-gallon satellite drum of liquid hazardous waste accumulating. It was closed and properly labeled. On the opposite side of the paint booth, there was one 55-gallon satellite drum of solid paint chips hazardous waste accumulating. It was closed, but was not labeled [40 CFR 262.15(a)(5)].

WAREHOUSE B

Warehouse B is located between Warehouse A and Warehouse C. This building contains a Machine Shop, a Paint Shop, an Electrical Shop and a Lagging Shop.

Machine Shop

This shop uses grinders, lathes and other types of machinery to modify or repair various ship parts. Diverse types of metal are used, including brass. All scrap metal is accumulated in the metal recycling dumpster outside or in 55-gallon drums, and then recycled.

Two parts washers were located in this area. One parts washer contains diesel fuel as a solvent. The waste diesel sludge is managed with the facility's used oil on an as-needed basis. Underneath the parts washer was spilled diesel that has not been cleaned up [40 CFR 262.251]. The second parts washer is located in another area of the shop and contains mineral spirits. Spent mineral spirits solvent is managed with D001 liquid paint waste.

There was one 55-gallon satellite drum of aerosol can liquid hazardous waste accumulating in the shop. The drum was properly labeled, but the can puncturing device was open (Photo 24) [40 CFR 262.15(a)(4)]. Spent aerosol cans from the Paint Shop are being managed here. The facility is reminded that satellite containers of hazardous waste should be managed in areas at or near the point of generation. Spent aerosol cans from other shops should not be managed in this shop.

There was one self-contained glove box blasting unit in the shop. According to facility representatives, the blast media is reused, and no blast media has recently been generated. There was spent blast media on the shop floor underneath the unit that has not been cleaned-up [40 CFR 262.251]. The facility did not have an analysis for the spent blast media at the time of the inspection and, as a result, did not make a hazardous waste determination on this waste stream [40 CFR 262.11]. Subsequent to the inspection, the facility had a TCLP analysis performed on the spent blast media and determined it was hazardous for cadmium. The facility should collect, properly manage and dispose of the spent blast media as a D006 hazardous waste.

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The shop uses CRC Brakleen Brake Parts Cleaner (90-100% tetrachloroethylene) on shop rags. When spent, the rags are an F002 hazardous waste. The spent F002 hazardous waste rags are placed into a non-hazardous oily rags container [40 CFR 262.20(a)]. Nearby there was one 55-gallon drum of non-hazardous oily shop rags accumulating. There were also several open containers of non-hazardous oily waste resting on top of the benches and containers. All of these F002 hazardous waste shop rags should be managed as hazardous waste in closed, properly labeled containers and shipped off-site as F002 hazardous waste.

Paint Shop

This shop is where paint and supplies are stored for use on various ships. Painting is generally performed on the ship, and any waste generated is brought back to the Paint Shop. The shop uses methyl ethyl ketone (MEK) to clean painting equipment. Spent MEK generates an F005 liquid hazardous waste. There were four 55-gallon drums of solid paint hazardous waste and one 55-gallon drum of liquid paint hazardous waste. All of the drums were closed, properly labeled and dated except for two of the drums of solid paint hazardous waste and the one drum of liquid paint hazardous waste [40 CFR 262.17(a)(5)(i)(C)]. There was adequate aisle space for the inspection of each container of hazardous waste. All the required equipment such as an eyewash station, a fire extinguisher and spill kit were observed in this area.

Adjacent to the drums were two small containers of liquid paint hazardous waste that had been intentionally left open in order for the waste paint to evaporate (Photo 25) [40 CFR 262.20(a)].

Spent aerosol cans are punctured and drained into a 55-gallon satellite drum of aerosol can liquid hazardous waste. There was one satellite drum of aerosol can liquid hazardous waste accumulating; however, the puncturing device had been damaged and was not in use but the drum's puncturing device was closed. The drum was properly labeled. Aerosol cans generated in this shop are being managed in the Machine Shop. The facility is reminded that satellite containers of hazardous waste should be managed in areas at or near the point of generation. Spent aerosol cans should be managed in this shop.

Electrical Shop

This shop repairs electrical components from ships and stores electrical parts and supplies.

Spent fluorescent bulbs are accumulated in this area before they are crushed. There was one drum-top bulb crusher device attached to a 55-gallon satellite drum of hazardous waste in this area. The drum was open (Photo 26) [40 CFR 262.15(a)(4)] and not labeled [40 CFR 262.15(a)(5)]. Near the drum-top bulb crusher, there was one 30-gallon drum of large spent universal waste bulbs accumulating. The drum was open, [40 CFR 273.13(d)(1)], not labeled [40 CFR 273.14(e)] and not dated (Photo 27) [40 CFR 273.15(c)].

Lagging Shop

This shop insulates pipes that will be outfitted onto ships. No hazardous waste is generated in this area.

WAREHOUSE C

This building contains a Dry Dock Department, a Storage Area, a Pipe Shop and a Carpentry Shop.

Dry Dock Department

This shop stores parts and materials used on the Dry Dock. No hazardous waste is generated in this area.

Storage Area

This area stores various ship components and facility items and tools that are unused or are waiting to be repaired. No hazardous waste is generated in this area.

Pipe Shop

This shop bends, cuts, and welds pipe for ships. Pipe cutter machines used in this area generate used oil. The machines were not in use during the time of the inspection. No hazardous waste is generated in this

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area. There was one 55-gallon drum of non-hazardous oily rags accumulating.

Carpentry Shop

This shop builds the facility's crates and other shipping containers. Wood is not painted or treated in this area. No hazardous waste is generated in this shop.

WASTEWATER TREATMENT PLANT (WWTP)

The facility has an on-site Wastewater Treatment Plant (WWTP) located near the southwestern section of the property. This WWTP has been added to the facility since the last DEP hazardous waste inspection. The WWTP is used for industrial pretreatment of non-hazardous wastewaters generated on-site before final discharge to the Publicly Owned Treatment Works (POTW) that is operated by JEA. An Industrial User Discharge Permit #0157 for operation of the WWTP was issued by JEA on February 15, 2018, and expires on February 14, 2023.

The non-hazardous wastewaters permitted for treatment in the WWTP include the following: hull wash water and oily bilge water, which may contain petroleum; detergents; suspended solids; organic paint additives; inorganic paint additives and solvents; graywater; non-contact cooling water; compressor condensate; and softener regeneration water.

Wastewater is pumped into the plant headworks from tanker trucks, poly totes and drums. Oil that is separated from the wastewater prior to treatment is collected in drums for disposal off-site.

The WWTP was not operating at the time of the inspection. Facility representatives stated that the plant had not operated for a little over a week because the plant operator had recently left the company and a replacement had not been hired.

Near the WWTP was an area where it appeared as though oil had been discharged to the ground and had not been cleaned-up (Photo 28) [40 CFR 279.22(d)].

There were five 55-gallon drums and four poly totes of used oil that were not located within secondary containment (Photos 29 and 30) [62-710.401(6), FAC]. One of the totes was open [62-710.401(6), FAC]. There were also three 55-gallon drums of paint chips in this area. The facility did not have an analysis for the paint chips at the time of the inspection and, as a result, did not make a hazardous waste determination on this waste stream [40 CFR 262.11]. Subsequent to the inspection, the facility had a TCLP analysis performed on each of the three drums of paint chips and determined that one of the drums was hazardous for lead. The facility is managing the drum as oily waste contaminated with lead. The facility should properly manage and dispose of this drum as a D008 hazardous waste.

RECORD REVIEW

The facility is currently operating as a Large Quantity Generator (LQG) of hazardous waste. The facility primarily generates the following hazardous wastestreams:

D001/D035/F003/F005 liquid paint waste;
D001/D035 solid paint waste;
D009 crushed bulbs;
D002 acids.

Hazardous wastes and non-hazardous wastes are transferred to Rineco (ARD 981 057 870) located in Haskell, Arkansas.

A review of the facility's hazardous waste manifests revealed the following discrepancies:

1. The facility had no record of any hazardous waste shipments between July 27, 2017, and October 29, 2017, a period of 94 days [40 CFR 262.17(a)]. An LQG may only accumulate hazardous waste on-site for 90 days or less.
2. The facility had no record of any hazardous waste shipments after January 30, 2018, to the date of the current inspection, June 27, 2018, a period of 149 days [40 CFR 262.17(a)]. An LQG may only accumulate

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hazardous waste on-site for 90 days or less.

3. Manifest #011107818 FLE dated October 30, 2017, did not have a signed return copy, and the facility did not file an exception report for this shipment of hazardous waste [40 CFR 262.42(a)(2)].

The facility's remaining records were reviewed including personnel training records, weekly container inspections, the Contingency Plan and other LQG requirements. The records reviewed appeared to be in order except for the items mentioned below.

*****NOTE: As of June 18, 2018, the State of Florida has adopted the recently-updated Federal hazardous waste rules, more commonly known as the Generator Improvement Rule. As a generator of hazardous waste, your facility is impacted by the rule change.

Please see the eCFR site for a copy of the Federal rule at - https://www.ecfr.gov/cgi-bin/text-idx?SID=ab7ac7e8d2fb42037c72a0de5162bcfe&mc=true&tpl=/ecfrbrowse/Title40/40cfrv28_02.tpl#0

The November 28, 2016, Federal Register also has a good discussion about the new requirements - <https://www.gpo.gov/fdsys/pkg/FR-2016-11-28/pdf/2016-27429.pdf>

Copies of PowerPoints that discuss the new requirements may also be found here - <https://floridadep.gov/northeast/ne-compliance-assurance/content/compliance-assurance-resources>

In addition to the potential violations cited below, this inspection revealed potential violations of the new requirements that were effective in Florida as of June 18, 2018. The potential violations observed included:

1. 40 CFR 262.11 – Hazardous waste determinations should now be documented fully, and all appropriate waste codes added to containers prior to shipping. Please see the rule for more information.
2. 40 CFR 262.17(a)(5)(B) – Hazardous Waste <90-day containers should now be labeled with an indication of the hazards of the contents. Please see the rule for examples of appropriate labels.
3. 40 CFR 262.15(a)(5)(ii) – All hazardous waste satellite accumulation containers should now be labeled with an indication of the hazards of the contents. Please see the rule for examples of appropriate labels.
4. 40 CFR 262.15(a)(8) – All hazardous waste satellite accumulation areas should now meet all of the Preparedness and Prevention and Emergency Procedures listed in 40 CFR 262 Subpart M. One of the potential violations noted during this inspection was that all hazardous waste satellite accumulation areas were not equipped with the required equipment listed in 40 CFR 262.252.
5. 40 CFR 262.262 – Contingency Plans, when updated, should meet all of the new requirements under the rule. Please see 40 CFR 262 Subpart M for all of the new requirements for Preparedness, Prevention and Emergency Response Procedures for LQGs.

For Outstanding Items of Potential Non-Compliance

Please review the following section – New Potential Violations and Areas of Concern. This section includes potential violations observed at your facility during this inspection. For any potential violations below that have not been corrected, please refer to the Corrective Action for each item that is suggested to bring your facility into compliance. Once the corrective action has been completed, please send documentation to the DEP NED inspector listed as the Principal Inspector on page 1 of this Inspection report. This documentation includes, but is not limited to, photos of corrected items, manifests, SDSs or other documents that will show that each potential violation has been fully addressed.

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New Potential Violations and Areas of Concern:**Violations**

Type: Violation 1

Rule: 279.22(c)

Explanation: Shipping and Receiving Building:
There were two drums of used oil that were not labeled as "Used Oil."Corrective Action: Shipping and Receiving Building:
No further action is required. The drums were labeled during the inspection.

Type: Violation 2

Rule: 262.17(a)(5)(i)(C)

Explanation: Shipping and Receiving Building:
There were two drums of hazardous waste that were not dated with the start date of accumulation outside of the HWAA.

There was one drum of unspecified hazardous waste that was not dated with the start date of accumulation inside of the HWAA.

Paint Shop:

There were three drums of hazardous waste that were not dated with the start date of accumulation.

Corrective Action: Shipping and Receiving Building:
No further action is required. The drums outside of the HWAA were dated during the inspection.

Paint Shop:

In order to return to compliance, the facility should clearly label or mark each container used to accumulate hazardous waste with the date that the hazardous waste first began accumulating in the container.

Type: Violation 3

Rule: 62-730.160(4)

Explanation: Shipping and Receiving Building:
There was inadequate aisle space for the inspection of each container inside of the HWAA.

Corrective Action: In order to return to compliance, the facility should ensure that there is adequate aisle space between containers of hazardous waste to allow for the inspection of the condition and labels of the individual containers. The aisle space should be sufficient space to allow unobstructed movement of personnel, fire-fighting equipment, spill control equipment and decontamination equipment to all areas of the facility in an emergency.

Type: Violation 4

Rule: 262.17(a)

Explanation: Shipping and Receiving Building:
There were 32 drums of hazardous waste that had accumulated longer than 90 days inside of the HWAA.

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1. The facility did not ship any hazardous waste off-site between July 27, 2017, and October 29, 2017, a period of 94 days.

2. The facility did not ship any hazardous waste off-site between January 30, 2018, and June 27, 2018, a period of 149 days.

Corrective Action: No further action is required. The facility shipped these hazardous wastes offsite on a hazardous waste manifest per an email dated July 19, 2018.

Type: Violation 5

Rule: 262.17(a)(5)(i)(A)

Explanation: Shipping and Receiving Building:
There was one drum of unspecified hazardous waste that was not properly labeled as "Hazardous Waste" inside of the HWAA.

Corrective Action: In order to return to compliance, the facility should label each container used to accumulate hazardous waste on-site with the words "Hazardous Waste."

Type: Violation 6

Rule: 279.22(d)

Explanation: Maintenance Shop/Old Blast House:
Oily water was released onto the concrete ground from a large tub that was used to leak-test radiators.

Dry Dock/Dock:

Used oil was leaking from an engine in a scrap metal recycling roll-off dumpster onto the ground.

Wastewater Treatment Plant:

What appeared to be a release of used oil was observed on the ground.

Corrective Action: Maintenance Shop/Old Blast House and Wastewater Treatment Plant:
In order to return to compliance, the facility should perform the following steps within 30 days and henceforth immediately upon detection of a release of used oil to the environment:

1. Stop and contain the release of used oil.
2. Clean up and properly manage the released used oil and remove any contaminated materials or soil for proper disposal.
3. If necessary to prevent future releases, repair or replace any equipment leaking used oil before returning the equipment to service.

Dry Dock/Dock:

No further action is required. The facility returned to compliance during the inspection and per an email dated July 19, 2018.

Type: Violation 7

Rule: 262.15(a)(4)

Explanation: Maintenance Shop/Old Blast House:
One satellite drum of aerosol can liquid hazardous waste was not closed.

Machine Shop:

One satellite drum of aerosol can liquid hazardous waste was not closed.

Electrical Shop:

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One satellite drum of hazardous waste crushed fluorescent bulbs was not closed.

Corrective Action: Maintenance Shop/Old Blasting House, Machine Shop:
In order to return to compliance, the facility should keep all containers of hazardous waste closed, except when adding or removing waste.

Electrical Shop:
No further action is required. The drum was closed by a facility representative during the inspection.

Type: Violation 8

Rule: 262.15(a)(5)

Explanation: Dry Dock/Dock:
One satellite drum of hazardous waste was not properly labeled with the words "Hazardous Waste."

Fabrication Shop's Paint Booth:
One satellite drum of hazardous waste was not properly labeled with the words "Hazardous Waste."

Electrical Shop:
One satellite drum of hazardous waste crushed fluorescent bulbs was not labeled with the words "Hazardous Waste."

Corrective Action: In order to return to compliance, the facility should label all satellite containers of hazardous waste with the words "Hazardous Waste" and an indication of the hazards of the contents (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704.

Type: Violation 9

Rule: 273.13(d)(1)

Explanation: Electrical Shop:
One drum of universal waste bulbs was not closed.

Corrective Action: In order to return to compliance, the facility should keep all containers of universal waste bulbs closed, except when adding or removing spent lamps.

Type: Violation 10

Rule: 273.14(e)

Explanation: Electrical Shop:
One drum of universal waste bulbs was not properly labeled.

Corrective Action: In order to return to compliance, the facility should label all containers of universal waste lamps with one of the following phrases: "Universal Waste-Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

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Type: Violation 11

Rule: 62-710.401(6)

Explanation: Maintenance Shop/Old Blast House:
Six drums of used oil were not located within secondary containment.

Wastewater Treatment Facility:
Five drums and four totes of used oil were not located within secondary containment.

One tote of used oil was open.

Corrective Action: In order to return to compliance, the facility should only store used oil in containers that are either double-walled or stored on an oil-impermeable surface with engineered secondary containment that has the capacity to hold 110% of the volume of the largest container within the containment area. Containers with a capacity of 55 gallons or less that are stored on an oil-impermeable surface inside a structure will meet the secondary containment requirement. Containers or tanks with a total capacity greater than 55 gallons must be double-walled, or they must be stored on an oil-impermeable surface such as sealed concrete or asphalt and be within secondary containment. The facility is reminded that used oil containers should be clearly labeled with the words "Used Oil." The containers must be in good condition (no severe rusting, apparent structural defects, or deterioration) with no visible oil leakage. All used oil containers and tanks stored outside of a structure, regardless of size, must be closed or covered or otherwise protected from the weather.

Type: Violation 12

Rule: 262.42(a)(2)

Explanation: The facility did not have a signed return copy for manifest #011107818 FLE dated October 30, 2017, and had not filed an exception report for this shipment.

Corrective Action: In order to return to compliance, the facility should obtain a copy of this manifest for its records and send a copy to the Department. In the future, if the facility does not receive a signed return copy of a hazardous waste manifest within 45 days of the waste being shipped off-site, the facility should file an exception report in accordance with this section and send the Department a copy.

Type: Violation 13

Rule: 262.20(a)

Explanation: Maintenance Shop/Old Blast House:
F005 hazardous waste shop rags were being managed as non-hazardous oily shop rags.

Machine Shop:
F002 hazardous waste shop rags were being managed as non-hazardous oily shop rags.

Paint Shop:
There were two small non-empty containers of liquid paint hazardous waste left open to intentionally evaporate.

Corrective Action: Maintenance Shop/Old Blast House and Machine Shop:
In order to return to compliance, the facility should properly containerize and manage all F005 and F002 shop rags as hazardous waste. The facility should then use a properly completed hazardous waste manifest for all shipments of hazardous waste rags from the facility.

Or the facility can manage these hazardous waste shop rags as Excluded Solvent

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Contaminated Wipes under 40 CFR 261.4(a)(26) and (b)(18).

Paint Shop:

In order to return to compliance, the facility should immediately stop evaporating paint. Further, the facility should properly containerize and manage all hazardous waste. The facility should then use a properly completed hazardous waste manifest for all shipments of hazardous waste from the facility.

Type: Violation 14

Rule: 262.11

Explanation: Maintenance Shop/Old Blast House:
The facility did not make a hazardous waste determination on spent antifreeze.

Dry Dock/Dock:

The facility did not make a hazardous waste determination on two 55-gallon drums of waste in a solid waste dumpster.

Tool Room:

The facility did not make a hazardous waste determination on the waste compressed gas cylinders.

Machine Shop:

The facility did not make a hazardous waste determination on spent blast media underneath the glove box.

Wastewater Treatment Plant:

The facility did not make a hazardous waste determination on the three drums of paint chips.

Corrective Action: In order to return to compliance, the facility should complete a hazardous waste determination on each of the waste streams listed below that have not already been analyzed. The waste should be analyzed by a certified laboratory as follows:

Maintenance Shop/Old Blast House:

The facility should either recycle the antifreeze at a qualified vendor, or make a hazardous waste determination on the spent antifreeze by analyzing it for:

- Toxicity Characteristic Leaching Procedure (TCLP) for RCRA Metals, pursuant to 40 CFR 261.24, via method 6010;
- Toxicity Characteristic Leaching Procedure (TCLP) for Volatiles, pursuant to 40 CFR 261.24, via method 8260;
- Ignitability, pursuant to 40 CFR 261.21, via method 1010.

Dry Dock/Dock:

The facility should make a hazardous waste determination by having the two drums analyzed for:

- Toxicity Characteristic Leaching Procedure (TCLP) for RCRA Metals, pursuant to 40 CFR 261.24, via method 6010.

Tool Room:

In order to return to compliance, the facility should either return the compressed gas cylinders to a supply vendor, or make a hazardous waste determination on the contents of the cylinders in accordance with 40 CFR 262.11.

Machine Shop:

In order to return to compliance, the facility should properly containerize, label and manage the D006 hazardous waste spent blast media by sending it off-site to a permitted treatment, storage, or disposal facility.

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The facility should also contain and prevent spent blast media from spilling out of the self-contained glove box blasting unit and henceforth immediately cleanup any spilled spent blast media, and properly containerize it and manage it as a hazardous waste.

Wastewater Treatment Plant:

In order to return to compliance the facility should properly containerize, label and manage the D008 hazardous waste paint chips by sending it off-site to a permitted treatment, storage, or disposal facility.

A copy of the results of these waste determinations should be submitted to this NED office. None of these wastes are to be disposed of until written approval has been given by the DEP. The waste should be disposed of in a proper manner once written approval has been given by the DEP. Hazardous waste should be sent off-site to a permitted treatment, storage, or disposal facility.

NOTE: None of the samples are to be composites. The samples are to be collected and analyzed in accordance with EPA publication SW# 846 "Test Methods for Evaluating Solid Waste" 3rd Edition. All sampling and analysis shall be conducted in accordance with Rule 62-160, FAC. A National Environmental Laboratory Accreditation Program (NELAP) certified laboratory should analyze the samples.

Type: Violation 15

Rule: **262.251**

Explanation: Machine Shop:
There was spilled diesel underneath the parts washer that the facility had not cleaned-up.

There was spent blast media underneath the self-contained blasting unit that the facility had not cleaned up.

Corrective Action: In order to return to compliance, the facility should contain and prevent diesel from spilling out of the parts washer and henceforth immediately cleanup any spilled diesel, and then place it back into the machine or manage it as hazardous waste.

In order to return to compliance, the facility should contain and prevent spent blast media from spilling out of the self-contained blasting unit and henceforth immediately cleanup any spilled spent blast media, and properly containerize it and then manage it as a hazardous waste.

Type: Violation 16

Rule: **273.15(c)**

Explanation: Electrical Shop:
One drum of universal waste bulbs was not dated with date universal waste was first placed into the container.

Corrective Action: In order to return to compliance, the facility should label or mark each container of universal waste with the earliest date that any universal waste was placed into the container or maintain an inventory system that identifies when each universal waste became a waste.

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Type: Violation 17

Rule: 262.252(c)

Explanation: Shipping and Receiving Building:
There was no eyewash station or spill kit adjacent to the drums of hazardous waste that were staged and awaiting transfer to the HWAA.

Dry Dock/Dock:
There was no eyewash station, fire extinguisher or spill kit adjacent to the drums of hazardous waste.

Corrective Action: Shipping and Receiving Building:
In order to return to compliance, the facility should install an eyewash station and spill kit in this area when hazardous waste is accumulating.

Dry Dock/Dock:
In order to return to compliance, the facility should install an eyewash station, fire extinguisher and a spill kit in this area when hazardous waste is accumulating.

PHOTO ATTACHMENTS:

Photo 1

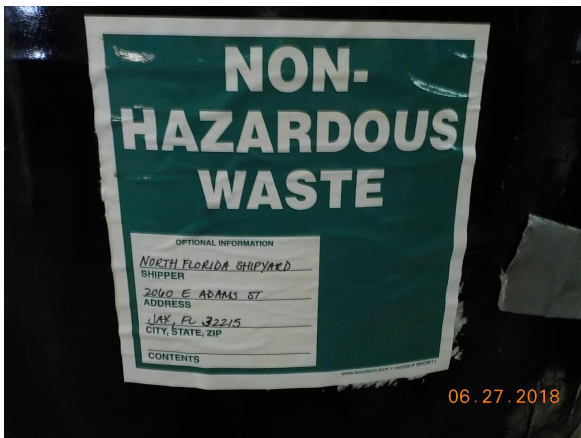


Photo 2



Photo 3



Photo 4



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Photo 5

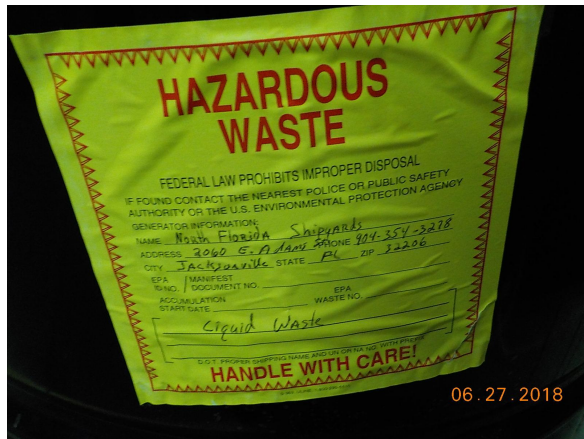


Photo 6



Photo 7



Photo 8



Photo 9

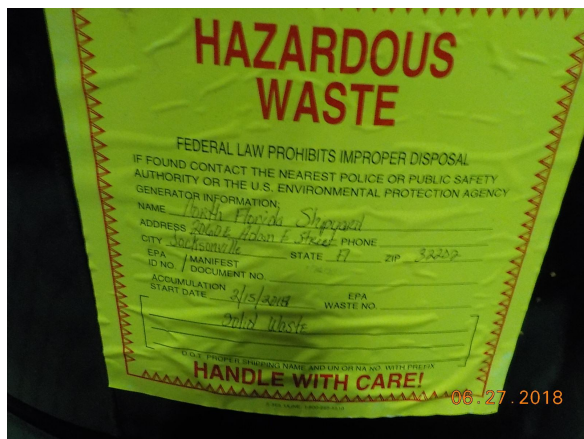
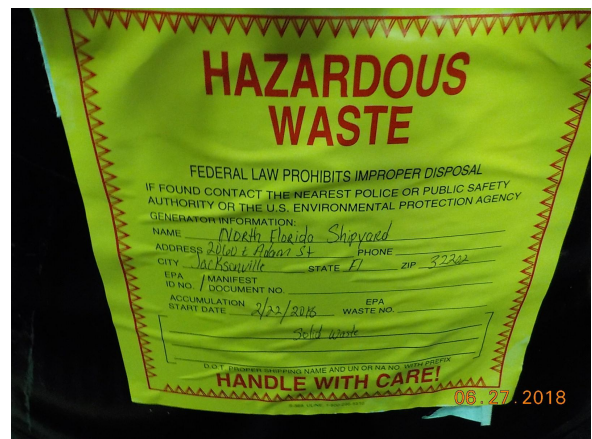


Photo 10



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Photo 11

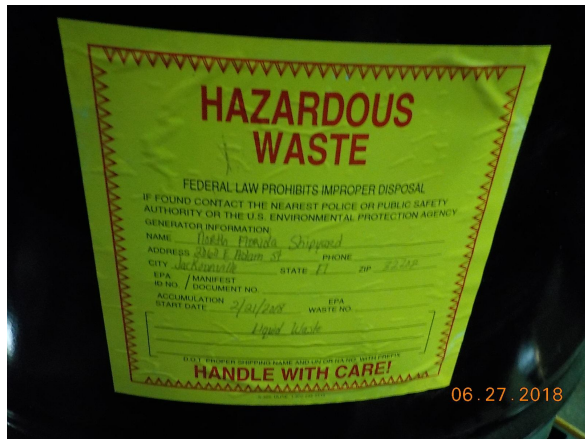


Photo 12

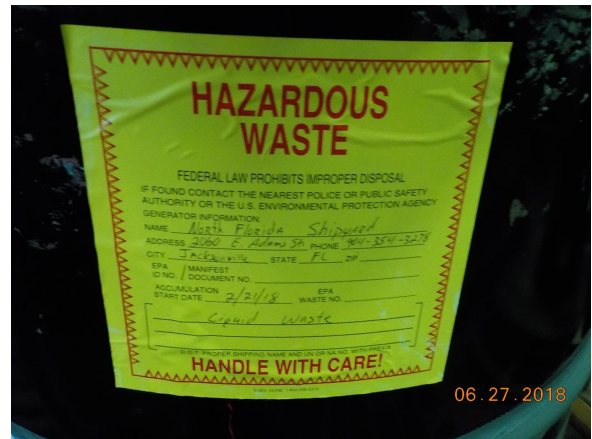


Photo 13



Photo 14



Photo 15

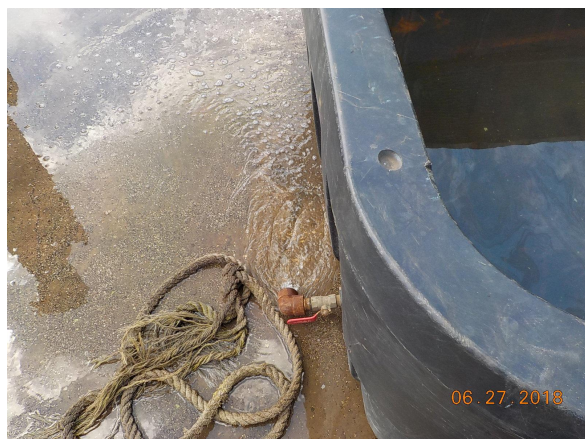


Photo 16



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Photo 17



Photo 18



Photo 19



Photo 20



Photo 21



Photo 22



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Photo 23



Photo 24



Photo 25



Photo 26



Photo 27



Photo 28



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Photo 29



Photo 30



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1.0 - Pre-Inspection Checklist

Requirements:

The requirements listed in this section provide an opportunity for the Department's inspector to indicate the conditions found at the time of the inspection. A "Not Ok" response to a requirement indicates either a potential violation of the corresponding rule or an area of concern that requires more attention. Both potential violations and areas of concern are discussed further at the end of this inspection report.

Note: Checklist items with shaded boxes are for informational purposes only.

Item No.	Pre-Inspection Review	Yes	No	N/A
1.1	Has the facility notified with correct status? 262.18(a)	✓		
1.2	Has the facility notified of change of status? 62-730.150(2)(b)			✓
1.3	Did the facility conduct a waste determination on all wastes generated? 262.11			✓

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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.

Luke S Lewis	Inspector
Principal Inspector Name	Principal Inspector Title

	DEP	09/07/2018
Principal Inspector Signature	Organization	Date

Eddie L Avery	Safety Director
Representative Name	Representative Title

NFSY
Organization

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.

Report Approvers:

Approver: Pam Fellabaum	Inspection Approval Date: 09/07/2018
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Exhibit B

Exhibit B

P2 Project Plan Template

Provide the information specified under each section and table

P2 PROJECT PLAN

(Facility Name)

(Address)

(Telephone)

(Preparer Name/Title)

A. Project Description: (Summarize P2 Projects selected.) Describe the processes or operations to be modified, and the specific changes to be made. Include details such as the specific equipment to be installed, materials to be substituted, and the actual changes to be made to processes or operations. Include manufacturer or vendor information, and specifications.

B. Environmental and Economic Benefits: (Explain why and how each Project proposed constitutes P2.)

Specify how each material, chemical, water and energy is saved, and from which processes or operations. Specify how each solid and hazardous waste, industrial wastewater and air emissions are generated, the waste type, and from which processes or operations. **Describe generally in paragraph format.**

Estimate the *annual* savings in *resources* - raw materials, chemicals, water, and energy at the process or operation front end. Estimate the *annual* reductions in *wastes* - solid and hazardous waste, wastewater, and air emission reductions at the process or operation back end.

Figures quoted should represent weights or volumes annually, and should be equalized for production rate changes. Associated cost savings should be included. **Describe specifically using the tables provided.**

<i>(Project Name)</i>							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							
Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

(Complete the first tables for each Project *individually*. Add or average corresponding figures from each Project table to complete the Plan table below *for multiple Projects*.)

Summary of All P2 Projects							
Annual Resource Consumption Comparison							
Item	Quantity Used (gal/lb/kwh-specify)			Purchasing Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Water							
Chemicals							
Materials							
Energy							
Total Annual Cost Savings =							
Annual Waste Generation Comparison							
Item	Quantity Generated (gal/lb/tons-specify)			Disposal Cost (\$)			Percent (%) Reduction
	Before	After	Reduction	Before	After	Reduction	
Hazardous Waste							
Industrial Wastewater							
Solid Waste							
Air Emissions							
Total Annual Cost Savings =							
Total Annual Avoided Cost Savings =							

C. Project Cost: (Include per Project the itemized, subtotal and Project total costs. A projected payback period in months or years needs to be included. Provide a grand total cost for all Projects and an averaged projected payback period, *for multiple Projects*. Use list or table format for all.)

D. Implementation Schedule: (Provide a brief discussion of the steps necessary to implement the Projects and expected time frames for completion. A table or list format is preferred. The schedule shall include a list of milestones with dates, or timeframes based on Plan approval date, including Progress and Final Report submittals. Provide a description of any anticipated problems and options. *The implementation should take no longer than six (6) months to complete.*)

E. Project Reporting:

1. Within 90 days of approval of the Project Plan, the Respondent shall submit a P2 Project Progress Report to the Department that describes the Respondent's progress in implementing the P2 Project and meeting the requirements in the Plan, and includes a list of equipment ordered, purchased, and/or installed.
2. Within 180 days of approval of the Plan, the Respondent shall submit to the Department a P2 Project Final Report that includes the following:
 - a. A confirmation that the information presented in Sections A-C of the Summary is unchanged, or an updated version with the sections changed appropriately. A statement that the Project(s) was/were implemented successfully. An explanation of any problems encountered and corrections applied; and
 - b. Attached expense reports, receipts, purchasing instruments and other documents itemizing costs expended on preparing and implementing the Project.

3. The Department shall review the Final Report and determine:
 - a. Whether the project was properly implemented; and
 - b. Which expenses apply toward pollution prevention credits.

4. A \$1.00 pollution prevention credit for each \$1.00 spent on applicable costs will be applied against the portion of the civil penalty that can be offset.
 - a. The following costs are allowable to offset the allowable amount of the civil penalty:
 - i. Preparation of the P2 Project;
 - ii. Design of the P2 Project;
 - iii. Installation of equipment for the P2 Project;
 - iv. Construction of the P2 Project;
 - v. Testing of the P2 Project;
 - vi. Training of staff concerning the implementation of the P2 Project; and
 - vii. Capital equipment needed for the P2 Project.

 - b. The following costs shall not apply toward P2 credit:
 - i. Costs incurred in conducting a waste audit;
 - ii. Maintenance and operation costs involved in implementing the P2 Project;
 - iii. Monitoring and reporting costs;
 - iv. Salaries of employees who perform their job duties;
 - v. Costs expended to bring the facility into compliance with current law, rules and regulations;
 - vi. Costs associated with a P2 Project that is not implemented;
 - vii. Costs associated with a P2 Project that has not been approved by the Department; and
 - viii. Legal costs.

 - c. If any balance remains after the entire P2 credit is applied to the allowable portion of the civil penalty, Respondent shall pay the difference within 30 days of written notification by the Department of the balance is due.