



Department of Environmental Protection

Jeb Bush
Governor

JUN 24 2005

Southeast District
400 N. Congress Ave. Suite 200
West Palm Beach, Florida 33401

Colleen M. Castille
Secretary

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

WARNING LETTER #WL05-0137HW13SED

Ms. Maria Leon
E.M.C. Oil Corp.
P.O. Box 520882
Miami, FL 33152-0882

Miami-Dade County
HW- E.M.C. Oil Corp.

RECEIVED
RCRA

JUL 01 2005

Hazardous Waste Regulation

RE: Hazardous Waste Compliance Evaluation Inspection at E.M.C. Oil Corp., 8470 NW 68th St., Miami, FL. EPA ID#FLR000000166.

Dear Ms. Leon:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A hazardous waste inspection was conducted at your facility on May 10, 2005. During the inspection, possible violations of Chapter 403, Florida Statutes (F.S.), Chapter 62-730, Florida Administrative Code (F.A.C.) regarding hazardous waste management were noted. The observations of the Department are in the attached inspection report. Florida Statutes provide that facilities must comply with Title 40 Code of Federal Regulations (CFR) Parts 260 through 268, and Part 279, as adopted in Chapter 62-730, F.A.C., and Chapter 62-710, F.A.C.

You are advised that any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately. Operation of a facility in violation of State statutes or rules may result in liability for damages and restoration, and the judicial imposition of civil penalties up to \$50,000 per violation per day pursuant to Section 403.727, F.S.

You are requested to contact Mr. Jeff Curtis of this office at 561/681-6756 within 15 days of receipt of this Warning Letter to arrange a meeting to discuss the issues. The Department is interested in reviewing 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.

If after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order which will include a compliance schedule and an appropriate penalty. In accordance with the Department's January 24, 2002 "Settlement Guidelines for Civil and Administrative Penalties" and the RCRA Civil Penalty Policy of June

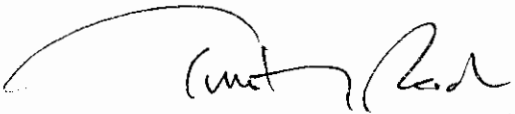
"More Protection, Less Process"

Printed on recycled paper.

2003, the penalty which would be proposed in this case is \$42,475.00 plus \$500.00 for administrative costs and expenses.

Please be advised that this Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(5), F.S. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach cooperative settlement. We look forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,

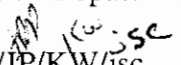


Kevin Neal Date

District Director

Southeast District

Florida Department of Environmental Protection


KN/JP/KW/jsc

cc: West Palm Beach, DEP File
Michael Redig, DEP Tallahassee, MS # 4560
Laurie DiGaetano, EPA Region IV
Robert Abrahante, MDCDERM

BACKGROUND

On May 10, 2005, a compliance evaluation inspection was conducted at E.M.C. Oil Corporation, (EMC), 8470 NW 68th St., Miami, Florida. Mr. George Vicente, Manager, hosted the site inspection. Mr. George Vicente and Ms. Maria Leon, President; hosted the record review. Department personnel participating in the inspection were Mr. Jeff Curtis, and Mr. Stephen Brown of the Hazardous Waste Compliance/Enforcement Section.

EMC is a registered transporter of used oil, used oil filters, oily wastewater, absorbent material and hazardous waste. EMC has been operating at this location for approximately ten years, and has approximately 12 employees. The facility, where EMC is located, is owned by MEL Property Inc., 8470 NW 68 St., Miami, Florida, and appears to be connected to the city sewer system.

SITE INSPECTION

The property on which EMC is located has one building. The building is divided into offices with an attached garage, which is used for maintenance and small repairs. Located behind the main building is a work yard where the used oil, used oil filters, soiled rags are stored. The used oil is stored in a 8000 gallon storage tank; used oil filters, and soiled rags are stored in 55 gallon drums. Mr. George Vicente greeted the inspectors and escorted them through the facility. Upon entering the work yard, inspectors noted that there were 7 drums sitting next to an EMC truck that appeared to have recently been unloaded. One of these drums had a used oil filter label on it while the other 6 were unlabeled. Mr. Vicente stated that the labels had come off and that personnel were in the process of putting new labels on the drums. Inspectors inquired about EMC's procedure related to screening pick ups for halogens. Mr. Vicente stated that all trucks carry a sniffer, and a dexsil testing kit in them. He then proceeded to a truck and produced a sniffer along with a dexsil kit from the inside of this truck. All other drums in the yard were correctly labeled and covered. The 8000 gallon used oil tank was correctly labeled as "used oil", and there were a 3 more large storage tanks that were labeled "empty". The storage tank area is completely surrounded with secondary containment. Mr. Vicente told inspectors that used oil is taken to Rinker and various other asphalt plants. Used oil filters are completely drained and taken to U.S. Foundry.

RECORD REVIEW

The following records were requested for review: hazardous waste transport manifests, used oil transport manifests, and used oil filter transport manifests. Although primarily a used oil transporter, Mr. Vicente informed inspectors that EMC transports hazardous waste for some of their customers, and that the hazardous waste shipments are taken directly to Perma-Fix. While reviewing used oil manifests inspectors noted the lack of an area on the manifest for drivers to indicate that a halogen screening had taken place for that load, otherwise all used oil and used oil filter manifests reviewed were in order. While reviewing hazardous waste transport manifests inspectors noted that on 3 manifests there was a significant lapse in time between the pick up from the generator and the delivery to Perma-Fix. These were: manifest #05-010-pick up 2/17/05, deliver to Perma-Fix 3/4/05, manifest #04-075-pick up 10/14/04, deliver to Perma-Fix 11/3/04, manifest #04-043-pick up 10/1/04, deliver to Perma-Fix 10/11/04. Mr. Vicente stated that it was

possible that the driver was late and was not able to make the delivery to Perma-Fix. Inspectors asked where the hazardous waste was stored in these instances and Mr. Vicente stated that it was probably stored on the truck.

DEPARTMENT FINDINGS

EMC notified as a registered used oil transporter, and a hazardous waste transporter. However, during the normal course of business EMC held hazardous waste at its' facility beyond the allowable 24 hour period on three separate occasions. On two of these occasions hazardous waste was held in excess of the 10 day period allowable by a transfer facility. Therefore, EMC is subject to full regulation as a hazardous waste storage facility set forth under 40 CFR 264.

An exit interview was conducted during the inspection and the following areas of concern and potential violations were discussed:

- 1) Containers of used oil filters should be labeled with the words "used oil filters" at all times.
- 2) Used oil screening should be documented on acceptance records.
- 3) Hazardous waste should not be stored in trucks, or on-site for more than 24 hours according to the regulations pertaining to a hazardous waste transporter.

EMC responded to the exit interview on May 16, 2005 with a letter from Maria E. Perez Leon. It stated that containers of used oil filters are labeled with "Used Oil Filters" label as they are picked up, or are labeled by EMC personnel as soon as they arrive at the facility. Also, that their drivers carry halogen detectors, and a Dexsil testing kit in their trucks at all times. Regarding hazardous waste, the letter states that EMC will schedule hazardous waste shipments to be taken to the disposal facility within 24 hours after it is picked up.

Used oil and hazardous waste management rules may have been violated, as noted below ("Summary of Potential Violations"). The Department expects the potential violations to be corrected in an expeditious and safe manner. The Department's Enforcement Section is willing to provide assistance within the Department's' capabilities, limitations, time constraints, and workload. In addition, if not already done, the Department suggests that a copy of the hazardous waste regulations (40 CFR 260-268 and 279) be obtained from local public, college, or law libraries or EPA Region IV or US Government Printing Office. Please be advised that the Department does not have copies of 40 CFR 260-268 and 279 to hand out.

SUMMARY OF POTENTIAL VIOLATIONS

40 CFR 264.11

Failure to Notify

EMC failed to notify proper authorities about hazardous waste activities.

Ch. 62-730.240(1), F.A.C.

Storage of Hazardous Waste Without a Permit

EMC stored hazardous waste at its' facility without the proper permit.

40 CFR 264.51

Failure to Have a Contingency Plan

EMC failed to have a contingency plan on-site.

40 CFR 264.37

Failure to Make Arrangements With Local Authorities

EMC failed to make arrangements with local authorities regarding hazardous waste being stored at its' facility.

40 CFR 279.44

Failure to Follow the Rebuttal Presumption Procedures

EMC failed to follow the rebuttal presumption procedures for used oil.

CORRECTIVE ACTIONS

40 CFR 264.11

Failure to Notify

Effective immediately, EMC should notify the Department as a hazardous waste storage facility, or cease storing hazardous waste at its' facility for more than the allowable 24 hour period.

Ch. 62-730.240(1), F.A.C.

Storage of Hazardous Waste Without a Permit

Effective immediately, EMC should obtain the proper permit for storage of hazardous waste, or cease storing hazardous at its' facility.

40 CFR 264.51

Failure to Have a Contingency Plan

Effective immediately, EMC should implement a contingency plan, or cease storing hazardous waste at its' facility for more than the allowable 24 hour period.

40 CFR 264.37

Failure to Make Arrangements With Local Authorities

Effective immediately, EMC should make arrangements with local authorities regarding hazardous waste being stored at its' facility.

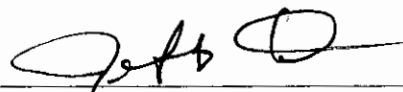
40 CFR 279.44

Failure to Follow the Rebuttal Presumption Procedures

Effective immediately, EMC should document used oil screening for every pick up on the acceptance records.

Please be advised that the findings in this report are based on the information available to the Department to date. Future information provided to the Department may affect the applicability of the citations referenced above and any pending agency action in accordance with Section 120.57(5), F.S.

Report prepared by:

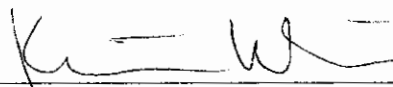


Jeff Curtis
Environmental Specialist

Date:

6/01/05

Report approved by:



Kathy Winston
Environmental Manager
Hazardous Waste Compliance/Enforcement Section

Date:

6/1/05

E.M.C. Oil Corporation
PENALTY JUSTIFICATION

Based upon Guidelines for Characterizing
RCRA Violations dated January 1999.

1. Regulation: 40 CFR 264.11

Failure to notify the proper authorities about hazardous waste activities.

Violation: E.M.C. failed to notify the Department as a Hazardous Waste Storage Facility.

Characterization of Violation:

Potential for Harm - Major

The potential for harm for failing to notify the proper authorities about hazardous waste activities is major.

Extent of Deviation - Major

The extent of deviation for failing to notify the proper authorities about hazardous waste activities is major.

Multi-day – Not Calculated

Economic Benefit – N/A

Adjustments - N/A

2. Regulation: Ch. 62-730.240(1), F.A.C.

Storage of hazardous waste without a permit.

Violation: E.M.C. stored hazardous waste at its' facility without having a permit.

Characterization of Violation:

Potential for Harm - Minor

The potential for harm for storing hazardous waste without a permit is minor.

Extent of Deviation - Major

The extent of deviation for storing hazardous waste without a permit is major.

Multi-day – Not Calculated

Economic Benefit – N/A

Adjustments - N/A

3. **Regulation:** 40 CFR 264.51
Failure to have a contingency plan.

Violation: E.M.C. failed to have a contingency plan on-site.

Characterization of Violation:

Potential for Harm - Moderate

The potential for harm for a storage facility failing to have a contingency plan is moderate.

Extent of Deviation – Major

The extent of deviation for failing to have a contingency plan is always major.

Multi-day – Not Calculated

Economic Benefit – N/A

Adjustments – N/A

4. **Regulation:** 40 CFR 264.37
Failure to make arrangements with local authorities.

Violation: E.M.C. failed to make arrangements with local authorities.

5. **Regulation:** 40 CFR 279.44

Failure of used oil handler to follow the rebuttal presumption procedures.

Violation: E.M.C. failed to follow the rebuttal presumption procedures to ensure that used oil is not a hazardous waste.

Characterization of Violation:

Potential for Harm – Moderate

The potential for harm for failing to follow the rebuttal presumption procedures is moderate.

Extent of Deviation – Major

The extent of deviation for failing to follow the rebuttal presumption procedures is always major.

Multi-day – Not Calculated

Economic Benefit – N/A

Adjustments – N/A

(THIS SPACE LEFT BLANK INTENTIONALLY)

