



Florida Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803

Charlie Crist
Governor

Jeff Kottkamp
Lt. Governor

Michael W. Sole
Secretary

April 21, 2008

Ronald Patterson, President
Fuels Unlimited, Inc.
Post Office Box 259
Sanford, Florida 32772

OCD-HW-08-106

Seminole County - HW
Fuels Unlimited, Inc.
Non-Compliance Letter

Dear Mr. Patterson:

A hazardous waste compliance inspection was conducted at your facility on October 11, 2007. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes in order to determine the compliance status of your facility with Title 40 Code of Federal Regulations (CFR) Parts 260-268, and Part 279 adopted in the Florida Administrative Code Chapters 62-730 and 62-710 respectively, and other Florida laws relating to hazardous waste and used oil.

During the inspection, Department personnel observed possible violations of Florida Statutes and Rules regarding management of solid and hazardous waste and used oil. The possible violations are identified in the "Potential Non-Compliance Items and Recommended Corrective Actions" section of the attached RCRA Inspection Report. There are also areas of concern identified in the report that should also be addressed.

The activities observed during the Department's field inspection and any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately.

It is the Department's intention to allow you to document compliance or corrective actions, so that this matter can be closed without further enforcement. Your failure to respond promptly in writing may result in the initiation of formal enforcement proceedings.

PLEASE BE ADVISED that this Non-Compliance Letter is part of an agency investigation preliminary to agency action within the meaning of Section 120.57(5), F.S. We request that you respond in writing within 30 days of receipt of this Non-Compliance Letter. Your written response should either describe what you have done to comply

with the requests made in the attached RCRA Inspection Report or provide evidence to support a claim that the violations did not occur.

Address your response to Mr. John White at john.white@floridadep.net or at the letterhead address above. If you have any questions you may contact Mr. White at (407)893-3323.

Sincerely,



Lu Burson
Environmental Manager
Solid and Hazardous Waste Program

LB/jw

Attachment: RCRA Inspection Report



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HAZARDOUS WASTE INSPECTION REPORT

1. **INSPECTION TYPE:** ☒ Routine ☐ Complaint ☐ Follow-Up ☐ Permitting ☐ Pre-Arranged

FACILITY NAME Fuels Unlimited, Inc. EPA ID # FLR000050369

STREET ADDRESS 509 S French Ave, Sanford, Florida 32771

MAILING ADDRESS Post Office Box 259, Sanford, Florida 32772

COUNTY Seminole PHONE 407-302-3193 DATE 10/11/07 TIME 0830

NOTIFIED AS: ☐ N/A

- ☒ Non Handler
☐ CESQG (<100 kg/mo.)
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☒ Transporter
☐ Transfer Facility
☐ Interim Status TSD Facility
☐ TSD Facility
Unit Type(s):
☐ Exempt Treatment Facility
☒ Used Oil: Processor

CURRENT STATUS:

- ☐ Non Handler
☒ CESQG (<100 kg/mo.)
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☒ Transporter
☐ Transfer Facility
☐ Interim Status TSD Facility
☐ TSD Facility
Unit Type(s):
☐ Exempt Treatment Facility
☒ Used Oil: Processor

2. **APPLICABLE REGULATIONS:**

- | | | | |
|--------------------------------------------------|-------------------------------------------------|--------------------------------------|-------------------------------------------------|
| <input checked="" type="checkbox"/> 40 CFR 261.5 | <input type="checkbox"/> 40 CFR 262 | <input type="checkbox"/> 40 CFR 263 | <input type="checkbox"/> 40 CFR 264 |
| <input type="checkbox"/> 40 CFR 265 | <input type="checkbox"/> 40 CFR 266 | <input type="checkbox"/> 40 CFR 268 | <input type="checkbox"/> 40 CFR 273 |
| <input checked="" type="checkbox"/> 40 CFR 279 | <input checked="" type="checkbox"/> 62-710, FAC | <input type="checkbox"/> 62-737, FAC | <input checked="" type="checkbox"/> 62-730, FAC |

3. **RESPONSIBLE OFFICIAL(s):**

Ronald Patterson, President

4. **INSPECTION PARTICIPANTS:**

John White – FDEP
Elizabeth Knuass - FDEP

Ronald Patterson – Fuels Unlimited

5. **SIC Code:** 5172

6. **TYPE OF OWNERSHIP:** Private Federal State County Municipal

7. **LATITUDE/LONGITUDE:** 28° 48' 27.1" / 81° 16' 22.2"

8. **PERMITS:** Used Oil 266845-HO-001 **Issued:** 03/26/2007 **Expires:** 03/26/2012

9. **Introduction:**

On October 11, 2007, John White and Elizabeth Knauss, Florida Department of Environmental Protection (FDEP), inspected Fuels Unlimited, Inc. (Fuels Unlimited) for compliance with State and Federal hazardous waste and used oil management requirements. Fuels Unlimited, Inc. is located at 509 South French Avenue, Sanford, Seminole County, Florida. The inspectors were accompanied by Ronald Patterson, President of Fuels Unlimited, Inc.

Fuels Unlimited, Inc. d/b/a Oils Unlimited notified the Department of its hazardous waste activities as a used oil handler and a hazardous waste non-handler in a notification received on May 15, 2006. The facility was issued EPA identification number FLR000050369 on May 31, 2006. Fuels Unlimited, Inc. was issued a used oil processor permit on March 26, 2007.

Fuels Unlimited, Inc. is open from 8:30 a.m. to 5:00 p.m. Monday through Friday.

10. **Inspection History:**

Oils Unlimited notified the FDEP of its used oil activities at this location in November 1988. Ronald Patterson stated he bought out his uncle's interest in the business and formed the new corporation, Fuels Unlimited, Inc., which was registered on February 14, 2006. He also registered Oils Unlimited as a fictitious name.

Oils Unlimited was previously inspected on January 21, 2005. At that time, the facility was found to have an on-site used oil storage capacity of greater than 25,000 gallons which required the facility to obtain a used oil processor permit from the Department. The following violations were cited: Rule 62-710.210(2), Florida Administrative Code (F.A.C.) / Title 40 Code of Federal Regulations (40 CFR) 279.54(f) – “Used Oil” label requirements; Rule 62-710.210(2), F.A.C. / 40 CFR 279.56(a) – Record keeping requirements; and Rule 62-710.800 F.A.C. – Failure to obtain a used oil processor permit. A Short Form Consent Order, OGC case number 05-1932, was executed on August 30, 2005, resolving violations identified during this inspection. The settlement included payment of \$4,000 in penalties.

This is the initial inspection of this facility under the new owners.

11. **Process Description:**

Fuels Unlimited, Inc. is a used oil broker operating on 0.39 acres of land. Oil is received from vendors and stored in aboveground storage tanks on site. Used oil is either picked up by a tanker truck owned and operated by Fuels Unlimited, Inc., or it is brought to the site by a tanker truck operated by a vendor.

Fuels Unlimited, Inc. does not perform any used oil processing on-site. The facility consists of an office, eleven above ground tanks, an equipment shed, a spill control shed, and a used oil transfer area. Of the eleven above ground storage tanks, only six are active. The six active tanks have a combined storage capacity of 112,000 gallons of used oil.

12. **Inspection:**

When inspectors arrived on-site, a 6,500 gallon tanker was on site picking up a load of oil. The driver, Tracy Gentle, is one of two drivers for Fuels Unlimited. Mr. Gentle had a current license and medical certificate, and safety equipment was on board the truck. Mr. Gentle says he mainly does long haul work, delivering to customers in Prattville,

Alabama, Marietta Georgia, and other locations. Specific customers he delivers to include Baldwin Paving and International Paper.

Mr. Gentle stated he only picks up on-specification used oil, where the supplier has already conducted an analysis. He had no equipment for detection of halogenated solvents in the oil, such as a sniffer, Dexsil halogenated chemical detection kits or sampling gear on board the truck. Mr. Gentle says he sniffs the oil with his nose to be sure it smells like oil, not gasoline or something else.

Inspection of the loading area and tank farm noted the containment area surrounding the loading manifold did not have a drain (Figure 1). There was staining in this area, along with some absorbent pads. A closed, unlabeled plastic collection tote was present [40 CFR 279.22(c)(1) – containers at generator facilities must be labeled or marked clearly with the words "Used Oil."]. The tote is placed under the valves when loading, unloading or collecting samples to collect spillage, and was 3/4 full at the time of the inspection.

Ronald Patterson, President of Fuels Unlimited, stated he does not manage waste water or petroleum contact water (PCW), but brokers the business to Aqua Clean if any of his customers need to dispose of waste water. He said he has not done this for some time, due to lack of rain this year. Aqua Clean also manages any PCW generated on site from the tank farm containment area, but none has been generated this year. In general, the water evaporates. The large containment area around the tank farm (Figure 2) had a locked, closed drain on the north end of the east containment wall (Figures 3, 4). There was evidence of a dried puddle in this area. The containment was otherwise clean and dry, and had recently been painted with a pale gray paint (Figure 5).

Spilled oil, excess samples and oil generated on site were stored in two 55-gallon drums on containment pallets in a storage shed (Figure 6). In addition, several containers of sock filters and contaminated soil and absorbent material were in the shed. The sock filters are used to filter the oil passing from the trucks to the storage tanks. The facility does not manage used oil filters, other than those generated on site. Mr. Patterson said that Space Coast Oil picks up the used oil generated on site, and that he does not pump it into his tankers.

Space Coast Oil arrived on site during the inspection to off load oil. Space Coast Oil did not claim the oil met specification. The oil had been picked up from several customers. All records, except for one, claimed that the oil had passed the sniffer test. The driver said he had sniffed the oil, but forgotten to check the section on the shipping paper. The driver had a Dexsil Q1000 test kit which he used to test his oil prior to unloading. The test kit read about 600 parts per million (ppm) of halogenated organics present in the oil, which was consistent with the results of a Dexsil Q4000 test conducted by the Department.

Fuels Unlimited accepts used oil from Florida Gas Transmission's maintenance operations. Mr. Patterson stated he does not accept their pipeline condensate. He stated he had been supplied with a lab analysis of the oil; however, inspectors did not review that record. He showed the inspectors the oil, which was brown and cloudy. He identified it as "100 SSU" aviation oil from the turbines.

Mr. Patterson initially stated that he tests every load of incoming oil for compliance with the used oil specification unless he had been provided with a laboratory analysis by the supplier. This testing is conducted in addition to the batch testing for his outgoing used

oil. He stated that all incoming oil is also tested by Dexsil. When asked about the driver's statement that he does not test or have any Dexsil kits on his truck, Mr. Patterson explained that he has the oil supplier run the analysis with his own kit in the presence of his staff. Fuels Unlimited must ensure that the driver verifies the used oil has been tested for halogens and that it is recorded prior to acceptance [F.A.C. 62-710.600(2)(b)(3) – To become certified and to maintain certification, used oil transporters shall: Show evidence of familiarity with applicable state laws and rules governing used oil transportation by submitting a training program for approval to the Department which includes provisions for at least the following: A detailed description of the company's standard operating procedure for halogen screening at each pick up location. This description shall include instrument specifications and capabilities, calibration methods and frequency, procedures addressing the handling of loads which indicate halogen levels in excess of 1,000 ppm, and record keeping procedures for all loads accepted or refused.

Mr. Patterson demonstrated how he collected samples for specification testing, by opening the valve slightly and collecting a grab sample in a plastic cup. The tanks in the tank farm do not have sampling ports. Mr. Patterson was not familiar with ASTM D4057-88, Standard Practice for Manual Sampling of Petroleum and Petroleum Products. The Air Program requires used oil fuel burners to have fuel analyses for sulfur content, and usually specifies the allowed ASTM sampling and test methods in the facilities' permits. In addition, the sampling method did not comply with the Department's tank sampling SOPs, FS 5200 and FS 5210. A copy of the Departments SOP's for sampling tanks is attached.

Samples are transferred to the lab in a disposable plastic medicine spoon which can be labeled as to the source and date of collection. A number of these were stored in the lab. The facility did not have a written sample retention policy.

The on-site laboratory is not certified by NELAP and does not have a quality assurance manual. The facility was requested to analyze two samples of oil supplied by the Department in accordance with their waste analysis plan. The company has a Spectro model 200 XRF spectrometer. The printout from the machine reports three parameters per analyses per sample. Mode One reports chlorine, lead and sulfur. Mode Three reports arsenic, cadmium and chromium. The machine printout includes serial number of the machine (S/N 4143) the date and time of analysis, along with a log number, the Mode number and a count number (in seconds). All results indicate the units as "ppm." However, Ms. Rider stated that the sulfur results were reported on the certificates of analysis as tenths of a percent. If the printout display is not accurate in parts per million, the program should be corrected. The Dexsil result is reported on the certificates of analysis provided to the burner. Ms. Rider stated that results with negative numbers are reported as non-detects. The printout for the Department's samples contained the following results:

<u>Constituent</u>	<u>Sample 1 (high TOX)</u>	<u>Sample 2 (low TOX)</u>
Cl	-9.0923	-12.5341
Pb	3.014	3.030
S	4.047	4.242
As	-36.6796	-85.5155
Cd	0.0524	0.0520
Cr	-322.1171	-357.5006

The same virgin oil was used to formulate both the low and high total halogen (TOX) sample. A laboratory analysis of the sample was requested in order to compare to the facility's results. According to the facility, the chlorine result is not reported. The Department's results were as follows:

<u>Constituent</u>	<u>Sample 1 (mg/kg)</u>	<u>Sample 2 (mg/kg)</u>
Cl	---	---
Pb	1.61	31.4
S	---	---
As	0.15 U	0.18 U
Cd	0.26 A	0.18 I
Cr	0.55 U	0.84 I

“---“= Sample was not analyzed for this Constituent

“U” = Material was analyzed for but not detected

“A” = Value reported is the mean of two or more determinations

“I” = The reported value is between the laboratory method detection limit and the laboratory practical quantitation limit

Based on the results of the Department's laboratory testing versus the XRF machine testing, it appears the values reported for lead by the XRF machine are not correct.

No calibration or maintenance records were available for the XRF spectrometer. The instrument manual covered several models, and according to Ms. Rider the facility's model was a "blank" model, not a pre-calibrated model. The facility has two sets of 12 calibration standards for wear metals in lubricating oil produced by Analytical Services Inc. in November 2004. One set contains arsenic, cadmium and chromium. The second contains chloride, lead and sulfur. The certificate of analysis for Lot 111004 states that the standards are considered valid for one year from the date the containers were opened. Each 25 ml vial of standard was about 2/3 full, and Ms. Rider stated that a calibration curve is run using these standards about once per year. These analyses were not included in the printouts stored in the envelope. According to EPA Method 9075 (total chlorine by in used petroleum products by XRF) quality control standard check samples should be run every day and should agree within 10% of the expected value of the standard. In addition, one sample in 10 should be analyzed in triplicate, and a standard deviation reported. Matrix spikes should also be analyzed. In addition, there is a set of solid single element calibration standard cups, including a cup for backscatter. The facility does not keep records showing dates or modes of use for these standards.

The radiation source for the instrument requires factory calibration about once every 2 to 3 years. Mr. Patterson said he had been making arrangements for this, and would be using a company called Phoslab to conduct specification testing while the machine was down. Ms. Rider said that there had been a problem with the machine earlier in the year. The printer was down for a while, and in addition the calibration was off. She said that she had worked with the factory rep to change the instrument settings to gain additional time before it had to be returned for calibration.

The facility has a Pensky-Martens closed cup flash point apparatus, using a Sunbeam dial thermometer in lieu of a laboratory grade instrument. No records were being kept of the flash point analyses, and Mr. Patterson indicated that he does not test every batch of oil for flash point. It is not clear how Fuels Unlimited determines whether or not their outgoing shipments meet DOT Hazmat criteria. Incoming oil from On Time was never

described as waste flammable or combustible liquids, but as On Time was not testing for flash point and accepted both waste flammable and combustible liquids, the oil shipped by Fuels Unlimited is potentially DOT hazardous materials.

Records Review

The office had the 2007 used oil registrations posted. The 2008 registration was not issued by the Department at the time of this inspection. The facility also has current tanks registration placards posted.

The facility's analytical recordkeeping does not comply with FAC 62-160.240 requirements. A sampling log book was maintained for incoming oil. The log began October 17, 2006 and ended January 16, 2007[Permit Condition Part II(1)(a)]. The remaining analytical records consisted of printouts collected in an envelope. The printouts were not in chronological order, and some appeared to be missing as noted on the attached spread sheet. The receiving log contained the date, company supplying the oil, the manifest number and the analysis log number. The remaining printouts had the name of the supplier, or sometimes the tank number noted on the log. None of the analyses on the receiving log were for batches of outgoing used oil fuel. There was no log or other records for outgoing fuel analyses except for the certificates of analysis supplied to the facility's customers. The company is not analyzing for BTUs or PCBs although the certificates of analysis report that PCBs are less than 2 ppm. PCB analysis is required pursuant to FAC Rule 62-710.210(3), which references 40 CFR 761.20(e). Water is analyzed by Dexsil Hydroscout kits. Records are not kept of these analyses either. Failing to comply with Department SOP's for documentation of sampling and analyses is a violation of FAC Rule 62-160.240. A copy of this rule is attached.

Based on the record review, the number of analyses being conducted on out-going shipments are insufficient compared to the volume of used oil managed at the facility and the capacity of the largest tank on site. It is evident that not every batch of used oil is being analyzed [40 CFR 279.72(a) / Permit Condition Part II(1)(d)].

Paperwork from On Time Environmental Services was reviewed. Receipts on site had weigh tickets attached. All showed transfer of used oil from On Time, with the EPA ID number for the Winter Haven Facility, although many receipts did not include the EPA ID number. Weigh tickets for a large number of these were from a scale at I-4 and CR 574 in Seffner, Hillsborough County. Mr. Patterson admitted that he did not drive oil from On Time's Winter Haven facility to Tampa for weighing which means the generator address on many of the receipts was incorrect. Loads from On Time Environmental Services Winter Haven facility would be weighed at I-4 and US 27. During the Department's more recent inspection of On Time's facility on September 6, 2007 the company stated that all transfers of used oil were now taking place at the Winter Haven facility. Contrary to Mr. Patterson's statement, he was not analyzing the On-Time oil for compliance with the specification, although On Time had not supplied any laboratory analyses. Only two printouts were found in the envelope with a notation "otes," both from February 2006.

Constituent ppm	2/8/08 OTES	2/28/06 OTES
Cl	-4.22	-4.695
Pb	3.026	3.041
S	1.649	1.843
As	-178.89	-219
Cd	0.059	0.0521
Cr	-416	-100.29

Review of manifests for Florida Gas Transmission also found that, as in the case of On Time Environmental Services, Fuels Unlimited failed to include the generator's EPA identification number on a significant number of used oil shipping papers [40 CFR 279.46(a)(2)].

13. **Areas of Concern:**

Fuels Unlimited must ensure that the driver verifies the used oil has been tested for halogens and that it is recorded prior to acceptance. F.A.C. 62-710.600(2)(b)(3) requires that, to become certified and to maintain certification, used oil transporters shall: show evidence of familiarity with applicable state laws and rules governing used oil transportation by submitting a training program for approval to the Department which includes provisions for at least the following: A detailed description of the company's standard operating procedure for halogen screening at each pick up location. This description shall include instrument specifications and capabilities, calibration methods and frequency, procedures addressing the handling of loads which indicate halogen levels in excess of 1,000 ppm, and record keeping procedures for all loads accepted or refused.

Based on the results of the Department's laboratory testing versus the XRF machine testing, it appears the values reported for lead by the XRF machine are not correct. The machine must be repaired or replaced and all testing required for certification of used oil as on-specification must be documented prior to shipment off-site to burners.

14. **Potential Non-Compliance Items and Recommended Corrective Actions:**

a) **Regulation: 40 CFR 279.22(c)(1) - Labeling**

Containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil." Specifically, Fuels Unlimited failed to properly label a collection tote in the loading area.

Recommended Corrective Action

Fuels Unlimited must ensure that all containers on site used to accumulate used oil are properly labeled "Used Oil."

b) **Regulation: Permit Condition Part II(1)(a)/F.A.C. 62-160.240 – Records**

Pursuant to 40 CFR 279.55, concerning the written analysis plan, the Permittee shall: Sample and analyze each incoming shipment for the parameters listed in Attachment 3 of the permit application, prior to accepting used oil from off-site facilities. The sampling frequency shall be in accordance with Attachment 3 of the permit application. Fuels Unlimited failed to properly analyze each incoming shipment and keep a record of such analysis.

Recommended Corrective Action

Fuels Unlimited must provide the Department with written assurances that the facility will comply with the permit requirements regarding analysis for each incoming load. Loads can only be accepted if accompanied by adequate test results performed by the generator or analysis conducted by Fuels Unlimited prior to loading the used oil into the facility's tanks documents the oil meets the facility's requirements. Also, the facility must document all analyses performed

on-site and include information such as time, date, type of analysis, origin of sample, who performed the analyses, and the results of the analyses.

- c) **Regulation: 40 CFR 279.72(a) / Permit Condition, Part II(1)(d) – Analysis**
A generator, transporter, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of §279.11 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specification. Fuels Unlimited failed to properly analyze all out-going shipments of used oil fuel before claiming the fuel met on-specification requirements of 40 CFR 279.11.

Recommended Corrective Action

When a tank of oil is full and/or ready for shipment off-site as on-specification fuel, Fuels Unlimited must test the contents of the tank to document it meets all of the specifications of 40 CFR 279.11. At this point, no further oil can be placed into the tank unless the facility wants to re-analyze the used oil fuel for the on-specification parameters. Copies of these analyses must be kept in the facility record.

- d) **Regulation: 40 CFR 279.46(a)(2)– Tracking Used Oil Shipments**
Used oil transporters must keep a record of each used oil shipment accepted for transport. Records for each shipment include the EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport. Fuels Unlimited failed to document the EPA identification number of the used oil generator on a significant number of shipping papers.

Recommended Corrective Action

Fuels Unlimited must document the EPA identification number of the generator, transporter, or processor/re-refiner who provided the used oil for transport on each shipping paper. Fuels Unlimited was provided with a link to the Department's database containing Florida EPA identification numbers to ensure Fuels Unlimited can easily meet this requirement in the future.

15. **Conclusion:**
Fuels Unlimited, Inc. was inspected as a used oil transporter, a used oil marketer, and a permitted use oil processor and was not in compliance at the time of this inspection.

Report Prepared By: _____
John White
Environmental Specialist

Report Reviewed By: _____
Lu Burson
Environmental Manager

Attachments: Florida Administrative Code Rule 62-160
Sampling SOP's FS 5200 and FS 5210
DEP Chemical Analysis Report



Figure 1. Loading Manifold



Figure 2. View of Tank Farm



Figure 3. Inside of containment area



Figure 4. Discharge pipe on right side of photo



Figure 5. Containment discharge pipe locked



Figure 6. Spill control storage shed