



# Florida Department of Environmental Protection

Northeast District Office  
7825 Baymeadows Way, Suite 200B  
Jacksonville, Florida 32256-7590

Charlie Crist  
Governor

Jeff Kottkamp  
Lt. Governor

Michael W. Sole  
Secretary

FEB 16 2010

Mr. Harry Lewis, President  
Lewis Environmental  
P.O. Box 40763  
Jacksonville, Florida 32203

**Re: Lewis Environmental  
1432 Cleveland St, Jacksonville, Florida 32203  
Warning Letter WL09-2488HW16NED  
EPA/DEP ID: FLR 000 048 561  
Duval County - Hazardous Waste**

Dear Mr. Lewis:

Enclosed is a copy of the penalty computation for the above referenced Warning Letter. Please see the following webpages for a copy of the May 2008 revision to the Florida Department of Environmental Protection (DEP) Guidelines for Characterizing RCRA Violations and the May 2008 revision to the DEP Guidelines for Characterizing Used Oil Violations:

[http://www.dep.state.fl.us/legal/Enforcement/appendix/guidelines/RCRA\\_Penalty\\_Guide.xls](http://www.dep.state.fl.us/legal/Enforcement/appendix/guidelines/RCRA_Penalty_Guide.xls)  
<http://www.dep.state.fl.us/legal/Enforcement/appendix/guidelines/Used-Oil-Penalty-Guide.xls>

Paper copies of the documents are also available upon request.

A meeting regarding the violations cited in the inspection report and the enclosed penalty computation should be scheduled at your earliest convenience.

If you have any questions regarding this letter, please contact me at the letterhead address or at 904.807.3382.

Sincerely,

Jenna Perry  
Environmental Specialist III  
Hazardous Waste Section

Enclosure

PENALTY COMPUTATION WORKSHEET

Violator's Name: Lewis Environmental

Inspected: October 30, 2009

Identify Violator's Facility: 1432 Cleveland St, Jacksonville, Florida 32203

	<b>Violation Type</b>	<b>Guide-Line</b>	<b>Potential for Harm</b>	<b>Extent of Deviation</b>	<b>Matrix Amount</b>	<b>Multi Day</b>	<b>Economic Benefit</b>	<b>Adjustments</b>	<b>Total</b>
1.	<u>40 CFR 261.5(g)(3)</u>	<u>HW 12</u>	<u>Minor</u>	<u>Minor</u>	<u>\$600</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$600</u>
2.	<u>40 CFR 262.11</u>	<u>HW 16</u>	<u>Minor</u>	<u>Major</u>	<u>\$2,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$2,900</u>
3.	<u>40 CFR 279.22(c)(1)</u>	<u>UO 146</u>	<u>Moderate</u>	<u>Major</u>	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
11.	<u>62-710.850(5)(a), FAC</u>	<u>UO 132</u>							
4.	<u>40 CFR 279.22(d)</u>	<u>UO 142</u>	<u>Moderate</u>	<u>Minor</u>	<u>\$1,600</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$1,600</u>
5.	<u>40 CFR 279.44(a)</u>	<u>UO 159</u>	<u>Moderate</u>	<u>Moderate</u>	<u>\$2,600</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$2,600</u>
9.	<u>62-710.510(1), FAC</u>	<u>UO 37</u>							
6.	<u>40 CFR 279.72(a)</u>	<u>n/a</u>	<u>Major</u>	<u>Major</u>	<u>\$9,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$9,000</u>
7.	<u>62-710.401(6), FAC</u>	<u>UO 144</u>	<u>Moderate</u>	<u>Major</u>	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
8.	<u>62-710.500(4), FAC</u>	<u>UO 26</u>	<u>Minor</u>	<u>Minor</u>	<u>\$500</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$500</u>
10.	<u>62-710.800(2), FAC</u>	<u>UO 86</u>	<u>Major</u>	<u>Major</u>	<u>\$9,000</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$9,000</u>
<b>Subtotal</b>					<b>\$34,000</b>				<b>\$34,000</b>
<b>Total Penalties</b>									<b>\$34,000</b>

Assigned by: Ashwin Patel, Vicky Valade, Pam Fellabaum, Jabe Breland, Jenna Perry, Jason Hermening, Neil Hornick, and Chelsea Gross

Date: February 15, 2010

Penalties were calculated in accordance with the May 2008 revision to the Florida Department of Environmental Protection (FDEP) Guidelines for Characterizing RCRA Violations and the May 2008 revision to the FDEP Guidelines for Characterizing Used Oil Violations.

Economic Benefit was considered but was inappropriate for the violations.

Violator's Name: Lewis Environmental

Inspected: October 30, 2009

Identify Violator's Facility: 1432 Cleveland St, Jacksonville, Florida 32203

#	Guide-line #	Description	Potential for Harm	Extent of Deviation
1.	HW 12	261.5(g)(3) - Failure to properly dispose of one non-empty aerosol can.	Minor based on ranking (4+2+4+1).	Always major; however, the District has determined this to be minor due to the low volume of waste.
2.	HW 16	262.11 - Failure to perform a hazardous waste determination on two 55-gallon drums of printing waste.	Minor based on ranking (4+2+1+1).	Always major.
3. 11.	UO 146 UO 132	279.22(c)(1), 62-710.850(5)(a) - Failure to label 17 different containers of used oil and one 55-gallon drum of used oil filters. Failure to containerize one used oil filter found on the ground.	Moderate based on ranking (4+8+1+1).	Always major.
4.	UO 142	279.22(d) - Failure to adequately clean up a release of used oil in two areas of the facility.	Moderate based on ranking (4+2+6+1).	Minor for de minimis oil release or leaks.
5. 9.	UO 159 UO 37	279.44(a), 62-710.510(1) - Failure to document halogen screening. Failure to maintain used oil acceptance and delivery records on DEP Form 62-710.901(2).	Moderate based on ranking (4+8+1+1).	Moderate when records are incomplete.
6.	n/a	279.72(a) - Failure of a used oil marketer to analyze each batch of used oil sent off as on-specification.	Major.	Major.
7.	UO 144	62-710.401(6) - Failure to provide secondary containment for 13 different containers of used oil.	Moderate based on ranking (4+8+4+1).	Always major.
8.	UO 26	62-710.500(4) - Failure to display the facility's validated registration form and ID.	Always minor.	Always minor.
10.	UO 86	62-710.800(2) - Failure of a used oil processor to obtain a permit from the DEP.	Always major.	Always major.

Lewis Environmental  
1432 Cleveland St, Jacksonville, FL 32203  
Warning Letter WL09-2488HWSNY16NED  
EPA/DEP ID: FLR 000 048 561  
Inspected: October 30, 2009

Re-Ordered Violations:

**1. 40 CFR 261.5(g)(3)**

Explanation: The facility failed to properly dispose of one non-empty aerosol can when it disposed of it in the solid waste trash.

Corrective Action: No further action is required. The facility has returned to compliance on 11/30/09.

**2. 40 CFR 262.11**

Explanation: The facility failed to perform a hazardous waste determination on the contents of two drums left by a printing company. The drums have been present on-site for several years.

Corrective Action: In order to return to compliance, the facility should either dispose of the containers of waste liquids being accumulated at the facility as a hazardous waste or complete a hazardous waste determination on the contents of the containers.

On 11/30/09, the facility stated that it would dispose of the drums as a hazardous waste. A copy of the manifests for this disposal should be provided to the DEP.

**3. 40 CFR 279.22(c)(1)**

Explanation: The facility failed to properly label the following used oil containers:

1. One 5-gallon bucket in front of the Tank Farm Area.
2. One 250-gallon tank in the Tank Farm Area.
3. One square black oil pan in the Maintenance Shop.
4. One mobile used oil cart in the Maintenance Shop.
5. One 30-gallon drum in the Maintenance Shop.
6. Four totes in the Drum Storage Warehouse.
7. Seven totes in the Old Gray Storage Building.
8. One 55-gallon drum of used oil with filters in the Old Gray Storage Building.

Corrective Action: No further action is required. The facility returned to compliance with numbers 2-5 and 8 on 11/30/09 and with numbers 1,6, and 7 on 12/18/09.

4. *40 CFR 279.22(d)*

Explanation: The facility failed to adequately clean up a release of used oil in the following areas:

1. Around the used oil filter and used oil drums in the Maintenance Shop.
2. Next to the used oil tank in the Drum Storage Warehouse.

Corrective Action: The facility has returned to compliance with item 2.

In order to return to compliance with item 1, the facility should immediately perform the following steps upon detection of a release of used oil to the environment:

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

5. *40 CFR 279.44(a)*

Explanation: The facility failed to conduct a halogen screening test prior to accepting used oil on a manifest dated 10/16/09.

Corrective Action: No further action is required. The facility returned to compliance on 11/30/09.

6. *40 CFR 279.72(a)*

Explanation: The facility failed to analyze used oil shipments for each batch sent to Atlantic Coast Asphalt and Oil Recovery to determine if the used oil was on-spec according to 40 CFR 279.11. The facility has performed only five analyses on batched shipments of used oil; however, the facility failed to run analyses for arsenic, cadmium, chromium, or lead on three of the five tests from 6/30/09, 7/15/09, and 8/12/09.

Corrective Action: In order to return to compliance, the facility should begin testing collections of each batch of used oil that is to be burned for energy recovery to determine if it meets the on-specification fuel specifications of 40 CFR 279.11. Each analysis should show the level of arsenic, cadmium, chromium, and lead in the used oil, as well as the flash point and the amount of total halogens. The facility should maintain each record of analysis onsite for at least three years.

7. *Rule 62-710.401(6), FAC*

Explanation: The facility failed to provide secondary containment for the following containers:

1. One 5-gallon bucket near the Tank Farm area.
2. Four totes of used oil in the Drum Storage Warehouse.
3. Seven totes in the Old Gray Storage Building. In addition, five of the totes were open and unprotected from the weather.
4. One 55-gallon drum that contained used oil and used oil filters in the Old Gray Storage Building.

Corrective Action: No further action is required. The facility returned to compliance with item 1 on 11/30/09 and with items 2 through 4 on 12/18/09.

**8. Rule 62-710.500(4), FAC**

Explanation: The facility failed to display the validated registration form and identification number provided by the Department in a prominent place at the facility's location.

Corrective Action: No further action is required. The facility returned to compliance on 11/30/09.

**9. Rule 62-710.510(1), FAC**

Explanation: The facility failed to maintain used oil acceptance and delivery records on DEP Form 62-710.901(2).

Corrective Action: No further action is required. The facility returned to compliance on 12/10/09.

**10. Rule 62-710.800(2), FAC**

Explanation: At the time of the inspection, the facility had a used oil storage capacity of 30,000 gallons, which meets the definition of a used oil processor. The facility did not have a permit from the DEP to operate as a used oil processor.

Corrective Action: In order to return to compliance, the facility should either:

1. Apply for a permit using DEP Form 62-710.901(6), the Used Oil Processing Facility Permit Application. The facility should also submit DEP Form 62-710.901(7), the Used Oil Processing Facility Closing Cost Estimate Form. Used oil processors should comply with 40 CFR 279 Subpart F and Chapter 62-710 of the FAC.

or

2. Remove one of the used oil storage tanks from the facility. The facility should be aware that any used oil storage capacity over 25,000 gallons is considered a used oil processor.

**11. Rule 62-710.850(5)(a), FAC**

Explanation: The facility failed to label one 55-gallon drum of used oil filters in the Maintenance Shop. The facility also failed to containerize one used oil filter, which was in the Drum Painting Area.

Corrective Action: No further action is required. The facility has returned to compliance.

EXTENT OF DEVIATION FROM REQUIREMENT  
(Hazardous Waste Cases)

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<u>Hazardous Waste</u>	MAJOR	MODERATE	MINOR
MAJOR	\$32,500 to \$25,791 <hr/> <b>\$ 29, 100</b>	\$25,790 to \$19,343 <hr/> <b>\$ 22, 600</b>	\$19,342 to \$14,185 <hr/> <b>\$ 16, 800</b>
MODERATE	\$14,184 to \$10,316 <hr/> <b>\$ 12, 300</b>	\$10,315 to \$6,448 <hr/> <b>\$ 8, 400</b>	\$6,447 to \$3,869 <hr/> <b>\$ 5, 200</b>
MINOR	\$3,868 to \$1,934 <hr/> <b>\$ 2, 900</b>	\$1,933 to \$645 <hr/> <b>\$ 1, 300</b>	\$644 to \$500 <hr/> <b>\$ 600</b>

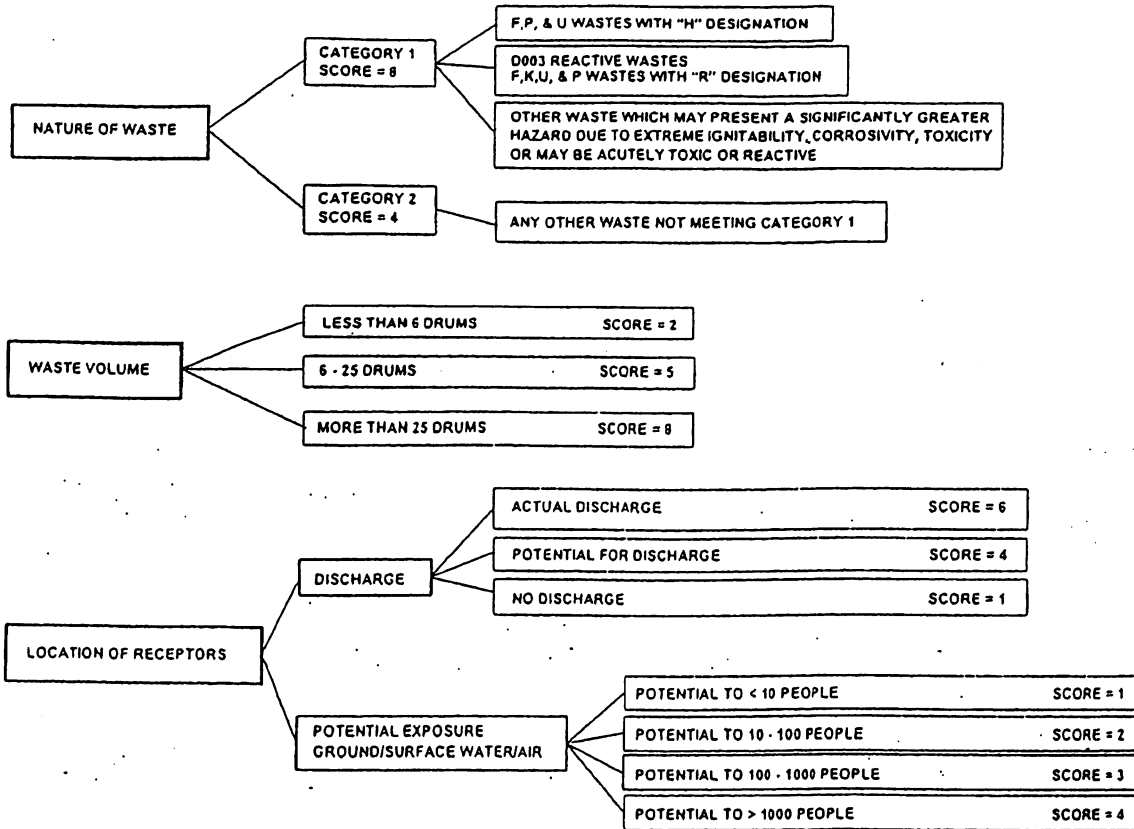
EXTENT OF DEVIATION FROM REQUIREMENT  
(Used Oil Cases)

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<u>Used Oil</u>	MAJOR	MODERATE	MINOR
MAJOR	\$10,000 to \$8,000 <hr/> <b>\$ 9, 000</b>	\$7,999 to \$6,000 <hr/> <b>\$ 7, 000</b>	\$5,999 to \$4,600 <hr/> <b>\$ 5, 300</b>
MODERATE	\$4,599 to \$3,200 <hr/> <b>\$ 3, 900</b>	\$3,199 to \$2,000 <hr/> <b>\$ 2, 600</b>	\$1,999 to \$1,200 <hr/> <b>\$ 1, 600</b>
MINOR	\$1,199 to \$600 <hr/> <b>\$ 900</b>	<b>\$ 500</b>	<b>\$ 500</b>

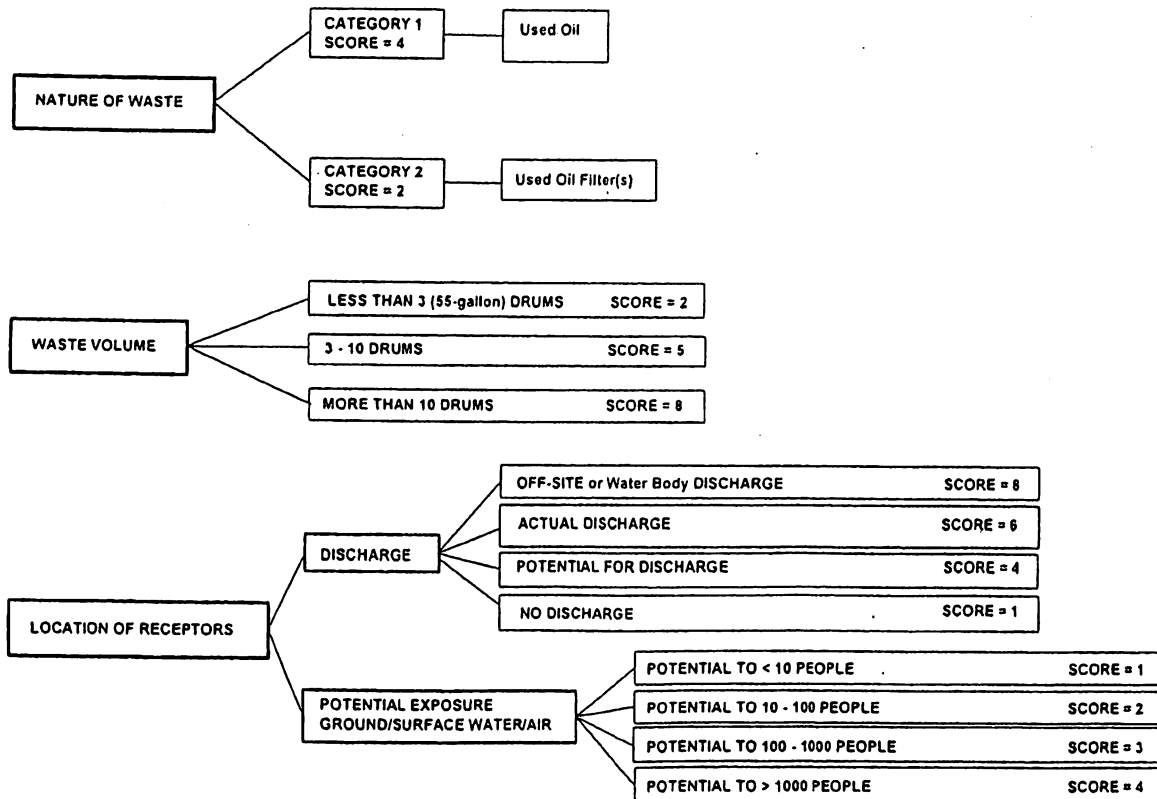


## POTENTIAL FOR HARM RANKING SYSTEM



## USED OIL/USED OIL FILTER

## POTENTIAL FOR HARM RANKING SYSTEM



**TOTAL POTENTIAL FOR HARM:**

19 - 24	MAJOR
13 - 18	MODERATE
6 - 12	MINOR