



**FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION**

Southwest District
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926
813-470-5700

RICK SCOTT
GOVERNOR

CARLOS LOPEZ-CANTERA
LT. GOVERNOR

JONATHAN P. STEVERSON
SECRETARY

April 23, 2015

EQ Florida, Inc.
Attn: Mr. Gene Cieply
7202 E 8th Avenue
Tampa, FL 33619

(Gene.Cieply@usecology.com)

SUBJECT: Department of Environmental Protection v. EQ Florida, Inc.
OGC File No.: 15-0142
FLD981932494 - Hillsborough County

Mr. Cieply

The State of Florida Department of Environmental Protection ("Department") finds that EQ Florida, Inc. ("Respondent") has managed hazardous waste, in violation of the rules and statutes cited in the attached inspection report. Before sending this letter, the Department requested that the Respondent undertake certain actions to resolve the violations. These actions have since been completed. However, due to the nature of the violations, the Respondent remains subject to civil penalties. The Respondent is also responsible for costs incurred by the Department during the investigation of this matter.

The Department's Offer

Based on the violations described above, the Department is seeking \$25,000.00 in civil penalties and \$500.00 for costs and expenses the Department has incurred in investigating this matter, which amounts to a total of \$25,500.00. The civil penalty in this matter includes six violations of \$2,000.00 or more.

Respondent's Acceptance

If you wish to accept this offer and fully resolve the enforcement matter pending against the Respondent, please sign this letter and return it to the Department at Southwest District, 13051 N. Telecom Pkwy. Temple Terrace, FL 33637 by April 24, 2015. The Department will then countersign it and file it with a designated clerk of the Department. Once the document is filed with the designated clerk, it will constitute a final order of the Department pursuant to Section 120.52(7), F.S. and will be effective

unless a request for an administrative hearing is filed by a third party in accordance with Chapter 120, F.S. and the attached Notice of Rights.

By accepting this offer you, Mr. Gene Cieply:

- (1) certify that you are authorized and empowered to negotiate, enter into, and accept the terms of this offer in the name and on behalf of Respondent;
- (2) acknowledge and waive Respondent's right to an administrative hearing pursuant to Sections 120.569 and 120.57, F.S., on the terms of this offer, once final;
- (3) acknowledge and waive Respondent's right to an appeal pursuant to Section 120.68, F.S.; and
- (4) acknowledge that payment of the above amount does not constitute a waiver of the Department's right, if any, to recover emergency response related costs and expenses for this matter.

The Department acknowledges that the Respondent's acceptance of this offer does not constitute an admission of liability for the violation(s) referenced above.

Respondent's Performance

After signing and returning this document to the Department,

- (1) Respondent must pay \$25,500.00 in full by May 10, 2015.
- (2) Respondent shall make all payments required by this Order by cashier's check, money order or on-line payment. Cashier's check or money order shall be made payable to the "Department of Environmental Protection" and shall include the notation "OGC Number 15-0142 and the notation "Ecosystem Management and Restoration Trust Fund." Online payments by e-check can be made by going to the DEP Business Portal at: <http://www.fldepportal.com/go/pay/> It will take a number of days after this order is final and effective filed with the Clerk of the Department before ability to make online payment is available.

The Department may enforce the terms of this document, once final, and seek to collect monies owed pursuant to Sections 120.69 and 403.121, F.S.

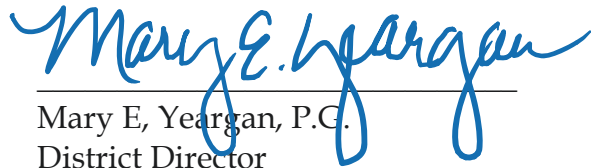
Until clerked by the Department, this letter is only a settlement offer and not a final agency action. Consequently, neither the Respondent nor any other party may request an administrative hearing to contest this letter pursuant to Chapter 120, F.S. Once this letter is clerked and becomes a final order of the Department, as explained above, the attached Notice of Rights will apply to parties, other than the Respondent, whose interests will be substantially affected.

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. No modifications of the terms of this Order will be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

Please be aware that if the Respondent declines to respond to the Department's offer, the Department will assume that the Respondent is not interested in resolving the matter and will proceed accordingly.

If you have any questions, please contact Elizabeth Knauss at 813/470-5902 or at Elizabeth.Knauss@dep.state.fl.us.

Sincerely,



Mary E, Yeargan, P.G.
District Director
Southwest District

FOR THE RESPONDENT:

I, _____ Gene Cieply, **HEREBY ACCEPT THE TERMS OF THE SETTLEMENT OFFER IDENTIFIED ABOVE.**

By: _____
[Signature]

Date: _____

Title: _____
[Type or Print]

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FOR DEPARTMENT USE ONLY

DONE AND ORDERED this ___ day of _____, 2015, in Hillsborough County, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION

Mary E. Yeargan, P.G.
District Director
Southwest District

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

Clerk

Date

Attachments: Notice of Rights
 File Review Report of 11/21/2014

ec: Mr. Ronald H. Noble, Buchanan Ingersoll Rooney PC (Ronald.Noble@bipc.com)

Final clerked copy furnished to:

Lea Crandall, Agency Clerk (lea.crandall@dep.state.fl.us)

NOTICE OF RIGHTS

Persons who are not parties to this 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 Order means that the Department's final action may be different from the position it has taken in the Order.

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

- a) The OGC Number assigned to this Order;
- b) The name, address, and telephone number of each petitioner; the name, address, and telephone number of the petitioner's representative, if any, which shall be the address for service purposes during the course of the proceeding;
- c) An explanation of how the petitioner's substantial interests will be affected by the Order;
- d) A statement of when and how the petitioner received notice of the Order;
- e) Either a statement of all material facts disputed by the petitioner or a statement that the petitioner does not dispute any material facts;
- f) A statement of the specific facts the petitioner contends warrant reversal or modification of the Order;
- g) A statement of the rules or statutes the petitioner contends require reversal or modification of the Order; and
- h) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the Department to take with respect to the 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 the address indicated above. 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. Mediation under Section 120.573, Florida Statutes, is not available in this proceeding.

PENALTY COMPUTATION WORKSHEET

Violator's Name: EQ Florida, Inc.

Identify Violator's Facility: 2002 N. Orient Rd., Tampa FLD981932494

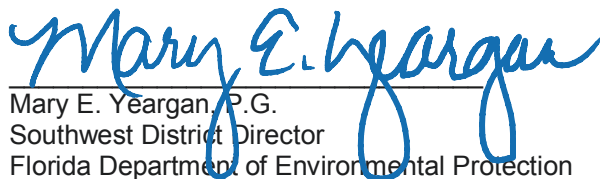
Name of Department Staff Responsible for the Penalty Computations: Elizabeth Knauss

Warning Letter #: TBD Date: January 27, 2015

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Multi Day Range	Total
1.	40 CFR 262.11 Failure to make a HW determination	HW 216	Major	Major	\$37,500-\$28,330		Combined with #7
2.	40 CFR 263.20 Transporting HW without a manifest	HW 122	Major	Moderate	\$28,330-\$21,25		Combined with #7
3.	40 CFR 264.13/Sp. Cond. II A 5 Waste Analysis Plan noncompliance	HW 149	Moderate	Major	\$37,500-\$28,330		Combined with #7
4.	40 CFR 264.16 Failure to adequately train personnel to perform their duties in a manner that ensures the facility's compliance with hazardous waste regulations	HW 208	Major	Moderate	\$11,330-\$7,090		\$9,000
5.	403.727(1)(c) Failure to comply with Part II Subpart E of the facility's combined operating permit 34875-HO-11 and 34757-010/SO/30 by managing hazardous waste outside of the permitted units between 11/11/14 and 11/17/14	HW 98	Major	Major	\$37,500-\$28,330		Combined with #7
6.	40 CFR 268.7(b)(1) Failure to test hazardous waste prior to shipment to a Subtitle D facility to determine whether or not the material met treatment standards	HW 152	Major	Major	\$37,500-\$28,33		Combined with #7
7.	40 CFR 268.34/403/272(1)(a)F.S. Land disposal of hazardous waste that did not meet treatment standards	HW 96	Major	Major	\$37,500-\$28,330 \$28,520 selected	\$7,090 - \$1,420 \$1,420 selected	\$28,520 + \$62,480 = \$91,000
SUB-TOTAL							\$100,000
SELF AUDIT POLICY ADJUSTMENT - 75%							-\$75,000
DEPARTMENT COSTS							\$500

Total Penalties Including Department Costs:

\$ 25,500.00


 Mary E. Yeargan, P.G.
 Southwest District Director
 Florida Department of Environmental Protection


 Date

PENALTY JUSTIFICATION / DEVIATION WORKSHEET

FACILITY NAME: EQ Florida Inc. Date: January 27, 2015

EPA ID No.: FLD981932494

Use this worksheet to explain all deviations from the program specific guidelines for characterizing violations and for all violations that do not have a specific penalty guideline included within the Enforcement Manual.

1. Separate penalties are not being calculated for violations 1, 2, 3, 5, 6 and 7, because these violations all occurred as a direct result of the facility's failure to correctly implement its waste analysis plan, which should have detected that the material was characteristically hazardous prior to acceptance.

The violations all involved the same waste from the same incident, which was reported upon discovery in accordance with the company's policy. The company did not discover the violation directly, as the analysis showing that the waste failed the TCLP was conducted by a third party, as part of their pre-acceptance testing. However under the selfaudit policy, a 75% penalty reduction is justified.

MULTIDAY PENALTY CALCULATION

Violation 403.727(1)(a) and (c) - Failure to comply with Department regulations and the facility permit

Number of Days of Violation 45 total - from 11/11/2014 to 12/29/2014, minus 3 holidays

Moderate/Major Gravity Based Penalty Range \$37,500-\$28,330- Penalty amount selected = \$28,520

Moderate/Major Multi Day Penalty Range \$7,090-\$1,420 - Penalty amount selected = \$1,420

Penalty = day 1 (gravity based penalty) + (number of days of violation -1) (multiday component)

$$\$28,520 + (45-1) \$1,420 = \$91,000$$

ECONOMIC BENEFIT CALCULATION

Economic Benefit Formula = Avoided Costs (1-C) + Delayed Costs (T) = \$ (250) (.03)/26 = \$0.29

C = Current Corporate Tax Rate = .35

T = IRS Interest Rate = 3% per year

Avoided Costs = \$0.00 based on self-reporting and the cost of the corrective actions taken. The corrective action costs far exceed any benefit that would have been derived from the initial noncompliance. EQ's charges to Pall for hazardous waste disposal were only \$1,713.00 higher than for non hazardous waste disposal.

Delayed Costs = Initial TCLP Metals analysis cost delayed for less than 2 weeks.



Florida Department of
Environmental Protection
Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: EQ Florida Inc

On-Site Inspection Start Date: 11/21/2014 **On-Site Inspection End Date:** 11/21/2014

ME ID#: 21659 **EPA ID#:** FLD981932494

Facility Street Address: 2002 N Orient Rd, Tampa, Florida 33619-3356

Contact Mailing Address: 7202 E 8th Ave, Tampa, Florida 33619-3380

County Name: Hillsborough **Contact Phone:** (813) 319-3423

NOTIFIED AS:

LQG (>1000 kg/month)

Transporter

Transfer Facility

TSD Facility Unit Type(s)

Used Oil

INSPECTION TYPE:

File Review Inspection for TSD Facility Unit Type(s)

INSPECTION PARTICIPANTS:

Principal Inspector: Elizabeth Knauss, Environmental Consultant

Other Participants: Stuart Stapleton, QEHS Manager; Gene Cieply, Facility Manager; Sean McGinnis, Environmental Manager; Melissa Madden, ES III

LATITUDE / LONGITUDE: Lat 27° 57' 44.8953" / Long 82° 22' 25.1455"

SIC CODE: 4953 - Trans. & utilities - refuse systems

TYPE OF OWNERSHIP: Private

Introduction:

On November 20, 2014 EQ Florida representatives contacted the District Office to report an incident involving hazardous waste received from Pall Corporation's Deland facility, FLD984171306. EQ's Industrial Services Division had been contracted to clean out a containment area, profile and properly dispose of the waste generated by the process. The material was incorrectly profiled as non hazardous waste, and was received at EQ on November 11, 2014, based on a profile of waste generated at a different Pall facility, which had closed. The material was treated on site by solidification and shipped to a Subtitle D landfill, the Cedar Trail landfill in Polk County, operated by Republic Services prior to receipt of analytical results showing that the waste was characteristically hazardous. A written report on the incident was submitted November 24, 2014, and additional information was submitted after review of the initial report. In addition, John White of the Department's Central District inspected the Deland facility on December 12, 2014 to obtain additional information on the nature of the process that generated the waste. Several meetings and teleconferences have been held subsequently to discuss corrective actions. As of the date of this report, the Pall waste has been excavated from the landfill, and final disposition is pending.

Process Description:

EQ's written report and subsequent documentation show the following time line for the incident:

7/11/14 - EQ provided a quote for pressure washing a containment area, vacuuming and containerizing the waste water, and to label, manifest and ship all materials in accordance with state and federal regulations.

Inspection Date: 11/21/2014

11/3/14 - Work order 14098100 signed

11/10&11/14 - Field work conducted, and 1,800 gallons of waste water shipped to EQ Florida in a tank truck.

11/13/14 - Sample provided to a third party for a disposal quote

11/17/14 - Solidified waste shipped to Cedar Trail Landfill

11/17/14 - Results of third party's waste analysis communicated to EQ,

11/19/14 - Date of TCLP analysis report conducted on a retained sample; Voice Mail left at FDEP District

11/20/14 - Date of verbal report to FDEP

11/24/14 - Date of initial written report

11/25/15 - Date of TCLP analysis for underlying hazardous constituents - Results indicated that the material had 80 mg/l chromium, as well as the underlying hazardous constituents cadmium at 0.52 mg/l, lead at 4 mg/l, nickel at 77.3 mg/l and thallium at 4.4 mg/l.

Several teleconferences and meetings took place after receipt of the report regarding corrective actions. During initial discussions, Cedar Trail was requested to isolate the cell in which the waste was disposed pending a discussion of potential corrective actions. Initially, it was thought that the material would not be retrievable, as it was received near the beginning of the day, and covered with other waste. EQ was requested to investigate whether it was possible to locate and collect a sample of the material, in order to determine whether or not it met land disposal restriction treatment standards. If so, the disposal would have been permissible. Cedar Trails is authorized to accept industrial waste that is not characteristically toxic. EQ had not set up a separate profile for treated characteristically hazardous waste. Under 40 CFR 268.9 regulations, EQ is required to maintain on-site certifications for treated hazardous waste, but is not required to notify the Subtitle D facility receiving the treated waste.

A written work plan for removal and sampling was submitted on December 17, 2014, and was approved that day. A meeting and teleconference between EQ, Republic and the Department was held December 23, 2014 to work out final details. During that meeting, Republic stated that the material would not be acceptable for disposal, regardless of whether it met 40 CFR 268.40 treatment standards, and requested that EQ locate and remove the material. Excavation began January 5, 2015 and removal was completed on January 14, 2014. The material had been mixed with other solid waste, and therefore excess waste was excavated based on grade checks within the disposal cell. The excavated material was sampled for TCLP analysis of the underlying hazardous constituents. Analytical results and a narrative describing the excavation were submitted January 21, 2013.

Results of the analyses indicate that only six of the roll offs met land disposal restriction treatment standards. Twenty one exceeded the cadmium treatment standard. Three also exceeded lead standards. Chromium, the primary constituent of concern was not detected in any of the analyses, with a detection limit of 0.2 mg/l. None of the samples were characteristically toxic.

The Department has determined that corrective actions at the Cedar Trail landfill are complete. Final treatment and disposition of the excavated material is pending as of the date of this report. The material will be treated to meet 40 CFR 268.48 treatment standards prior to final disposal. Copies of disposal records and land disposal notices and certifications have been requested.

New Potential Violations and Areas of Concern:

Violations

Inspection Date: 11/21/2014

Type: Violation

Rule: 262.11

Explanation: EQ's Industrial Services division was contracted to perform a hazardous waste determination on behalf of Pall Corporation, and failed to comply with internal procedures for ensuring that material was properly profiled prior to receipt of hazardous waste that was misidentified as non-hazardous waste.

Corrective Action: EQ must ensure that all staff responsible for assisting customers with waste profiling review the company's waste analysis plan and the regulations regarding identification of hazardous waste in 40 CFR 261, as adopted in FAC Rule 62-730.

Type: Violation

Rule: 263.20

Explanation: EQ transported 1,800 gallons of D007 hazardous waste without a hazardous waste manifest.

Corrective Action: EQ must comply with the facility's waste analysis plan requirements for identifying hazardous waste, and must ensure that hazardous waste is shipped using appropriate shipping papers.

Type: Violation

Rule: 264.13(a)

Explanation: EQ failed to comply with the waste analysis plan requirements under this section, and under Specific Condition II A 5 of the facility's permit.

Corrective Action: EQ must ensure that hazardous waste generators and waste streams are properly identified during the waste profiling process.

Type: Violation

Rule: 268.40(a)(2)

Explanation: Land disposal of a hazardous waste that did not meet treatment standards for the underlying hazardous constituents present in the waste.

Corrective Action: Treat the excavated waste and ensure that the treated waste meets 40 CFR 268.48 treatment standards for chromium, cadmium, lead, nickel and thallium prior to land disposal. If the decharacterized waste is shipped to an off site facility for treatment, ensure that the receiving facility is notified in accordance with 40 CFR 268.7(b)(4) requirements.

Type: Violation

Rule: 268.7(b)

Explanation: Failure to test treated waste prior to shipment to a Subtitle D landfill to determine whether the waste met land disposal restriction treatment standards for D007 wastes.

Corrective Action: EQ has recovered the landfilled waste and analyzed the material. Twenty one of twenty seven roll off containers did not meet land disposal restriction treatment standards for the underlying hazardous constituents cadmium and three also

Inspection Date: 11/21/2014

exceeded the treatment standard for lead.

Type: Violation

Rule: 403.727(1)(c)

Explanation: Failure to comply with Part II Subpart E of the facility's operating permit. Hazardous waste was managed within the facility's solid waste solidification unit, rather than within the hazardous waste stabilization tank. The facility was not in compliance with its permit from November 11, 2014 until November 17, 2014.

Corrective Action: EQ Florida is authorized to solidify solid waste within the facility's solid waste stabilization pad. Hazardous waste may not be managed within this unit. Treatment to chemically stabilize waste is only authorized within the facility's hazardous waste treatment unit. EQ must ensure that these units are managed in accordance with the permit in the future.

Type: Violation

Rule: 264.16(a)

Explanation: EQ Industrial Services staff improperly used an approved waste profile for one Pall Corporation facility to characterize waste from a different Pall facility as non hazardous. EQ field staff did not review the shipping paper to identify that the pre-printed paper included an incorrect facility location address. Staff training was not adequate to prevent this incident.

Corrective Action: EQ must provide remedial training for Industrial Services staff responsible for bidding jobs and providing disposal quotes. EQ must also provide remedial training for drivers and field staff responsible for obtaining signatures on pre-printed shipping papers.

Conclusion:

EQ Florida has self reported this incident and is taking appropriate corrective action.

Inspection Date: 11/21/2014

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62-740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Elizabeth Knauss

PRINCIPAL INSPECTOR NAME

Environmental Consultant

PRINCIPAL INSPECTOR TITLE*Elizabeth Knauss***PRINCIPAL INSPECTOR SIGNATURE**

FDEP - SWD

ORGANIZATION

1/27/2015

DATE**Supervisor:** Sean McGinnis

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.