



FLORIDA DEPARTMENT OF
ENVIRONMENTAL PROTECTION

SOUTH DISTRICT
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RICK SCOTT
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JONATHAN P. STEVERSON
SECRETARY

May 1, 2015

Mr. Mike Borko
Kelly Tractor Company
801 E. Sugarland Highway
Clewiston, FL 33440-2703
Mike_Borko@kellytractor.com

Re: Hendry County – HW
Facility Name: Kelly Tractor Co.
Facility ID Number: FLD981926488

Dear Mr. Borko:

A compliance evaluation inspection was conducted at your facility on April 21, 2015, under the authority of Section 403.091, Florida Statutes (F.S.). During this inspection, a possible violation of 40 CFR 260-273 and 279, adopted in Florida Administrative Code (F.A.C.) Chapters 62-730, 62-737 and 62-710 was observed. The purpose of this letter is to offer you compliance assistance as a means of resolving this matter.

Please see the attached inspection report for a full account of Department observations and be advised this Compliance Assistance Offer is part of an agency investigation preliminary to agency action in accordance with Section 120.57(5), F.S. We request you review the items of concern noted in the attached inspection report and respond in writing within **15 days** of receipt of this Compliance Assistance Offer. Your written response should either:

1. Describe what you have done to resolve the issue (see “New Potential Violations and Areas of Concern” section of the report),
2. Provide information that either mitigates the concern or demonstrates it to be invalid, or
3. Arrange for one of our inspectors to visit your facility to offer suggested actions to return to compliance without enforcement.

It is the Department’s desire that you are able to document compliance or corrective actions concerning the possible violations identified in the attached inspection report so that this matter can be closed without enforcement. Your failure to respond promptly in writing (or by e-mail) may result in the initiation of formal enforcement proceedings.

Kelly Tractor Company
Facility ID No. FLD981926488
May 1, 2015
Page 2 of 2

Please address your response and any questions to Laura Comer of the South District Office at (239) 344-5626 or via e-mail at Laura.Comer@dep.state.fl.us. We look forward to your cooperation with this matter.

Sincerely,

A handwritten signature in blue ink, reading "Jennifer L. Carpenter", is written over a horizontal line.

Jennifer Carpenter
Assistant Director of District Management
South District Office

Enclosure: Inspection Report

JC/LC/rcd

cc: Mike Isom (Mike_Isom@kellytractor.com)



Florida Department of
Environmental Protection
Hazardous Waste Inspection Report

FACILITY INFORMATION:

Facility Name: Kelly Tractor Co

On-Site Inspection Start Date: 04/21/2015

On-Site Inspection End Date: 04/21/2015

ME ID#: 45454

EPA ID#: FLD981926488

Facility Street Address: 801 E Sugarland Hwy, Clewiston, Florida 33440-2639

Contact Mailing Address: 8255 NW 58th St, Doral, Florida 33166-3406

County Name: Hendry

Contact Phone: (305) 592-5374

NOTIFIED AS:

SQG (100-1000 kg/month)

Used Oil

INSPECTION TYPE:

Routine Inspection for Used Oil Transporter facility

Routine Inspection for Used Oil Transfer Facility

Routine Inspection for Used Oil facility

Routine Inspection for CESQG (<100 kg/month) facility

INSPECTION PARTICIPANTS:

Principal Inspector: Laura M. Comer, Environmental Specialist III

Other Participants: Mike Borko, Service Manager; Mike Isom, Safety and Environmental Manager; Ken Osbourne, Parts Department

LATITUDE / LONGITUDE: Lat 26° 45' 16.2507" / Long 80° 55' 18.8553"

SIC CODE: 7699 - Services - repair services, nec

TYPE OF OWNERSHIP: Private

Introduction:

Kelly Tractor Company has been at this location since 1933 and was previously inspected in 1987, 2010, and 2011. The property is on municipal water and sewer and currently has approximately 30 employees. The facility has a current registration (insurance and registration are up to date) as a used oil transporter and transfer facility and a used oil filter transporter and transfer facility. The facility notified as a small quantity generator of hazardous waste in 1987.

A compliance evaluation inspection was conducted at Kelly Tractor on April 21, 2015. The purpose of the inspection was to determine compliance with state and federal regulations associated with the Resource Conservation and Recovery Act (RCRA). Kelly Tractor was determined to be a conditionally exempt small quantity generator (CESQG) of hazardous waste including solvent contaminated wipes and residue from aerosol can puncturing (F005) at the time of the inspection. A CESQG generates less than 220 pounds of hazardous waste in any calendar month and never accumulates greater than 2,200 pounds at any one time. The facility also generates used oil, used oil filters, oily absorbents, oily waste, spent lead-acid batteries, oily shop rags, excluded solvent contaminated wipes, sediment from wash down station, and spent fluorescent lamps.

Process Description:

Kelly Tractor provides rentals, leasing, sales and service of construction and industrial equipment.

Kelly Tractor generates used oil while conducting mobile servicing of leased equipment. Used oil

Inspection Date: 04/21/2015

(typically around 110 gallons) is brought back to the facility in tanks built in to a totally enclosed service truck. Mr. Borko said the tanks of product and used oil are labeled. Used oil is pumped from the truck tanks into the facility's used oil storage tank at the end of every service day. The facility uses the "Used Oil and Used Oil Record Keeping Form" to track the locations and quantities of oil generated off-site. The facility has not provided mobile service for the past six months as their mobile mechanic has been out on extended medical leave.

Used oil is also generated from servicing equipment on-site. Used oil is collected in drain pans labeled "used oil" and is pumped from the work bays directly to the used oil tank outside via overhead piping. Used oil filters are drained prior to placing in drums. At the time of the inspection there were six closed drums labeled "used oil filters". One drum labeled "used oil" had a drum top drain funnel in the bung and was being used to drain used oil filters at the time of the inspection. An open drum labeled "used oil" is situated underneath a grate where the pump nozzle is stored to catch incidental drips. All drums are stored indoors and protected from the weather.

The facility generates oily shop rags and drip pads which are stored in a closed 55-gallon drum labeled "non-hazardous used absorbents".

Until a little over a year ago, the facility used mineral spirits for parts washing. In 2010 the facility had parts washer waste analyzed for heavy metals and the results were all well below TCLP. Spent mineral spirits were managed with used oil.

The facility now owns and maintains four aqueous parts washers. Maintenance is performed as needed when the mechanics determine a unit is no longer cleaning properly. The service date is written on a label on the side of the unit. The units were observed to have dates ranging from July 2014 to February 2015. The solids are drained and placed into a drum labeled "oily sludge". The service manager estimates a few gallons of waste is generated at a time from each unit, never exceeding 10 gallons a month. The facility has not yet disposed of this waste stream. Mr. Borko will work with Heritage Crystal Clean regarding disposal of this waste stream.

The facility uses CRC Brakleen No. 05088 which contains methanol, acetone, and 15-25% toluene. Disposable wipes potentially contaminated with this product are collected in a closed 55-gallon drum labeled "hazardous waste" and "solvent wipes - solvent rags and absorbents used with Brake Cleaner - please keep lid closed". The drum is dated 10/17/14. The facility has not yet disposed of these solvent wipes as they just implemented the program last fall. The facility was advised that they can decide if the wipes will be managed as hazardous waste (properly manifested) OR handle them under the wipes exclusion. If they chose to use the exclusion the label should say "Excluded Solvent-Contaminated Wipes". A stencil and guidance document on this topic were provided during the inspection.

The facility has a drum type aerosol can crusher which is closed and has a filter unit in the bung. The metal scrap is recycled and liquid waste collects in the drum. The drum is labeled "hazardous waste - solvent liquid" and is dated 10/8/14. The facility did not have documentation for disposal of this waste stream and indicated it may have been more than three years since they disposed of any waste.

The facility drains antifreeze into a container labeled "antifreeze" and returns the antifreeze to the equipment after the work is performed. The facility does not generate waste antifreeze.

Spent batteries are stored indoors until they are transferred to the Kelly Tractor located in Fort Myers. The Fort Myers store trades the spent batteries back to the dealer.

Used oil is stored in a 1,000 gallon above ground storage tank co-located with product oil tanks in secondary containment covered by a roof and three walls. The tank is protected from the weather and is labeled "waste oil".

Spent fluorescent lamps are stored in two closed, large round fiberboard boxes labeled "non-hazardous waste". The containers were not easily accessible at the time of the inspection and it could not be determined if they were dated. Receipts were not available during the inspection and

Inspection Date: 04/21/2015

it could not be determined if any lamps had yet been recycled.

The facility has a closed loop wash water recycling system for a truck wash area used to remove exterior dirt from heavy equipment. Water flows into a retention area and oil is continuously skimmed off the surface and drops into a drum. The drum is located on an oil impervious surface and protected from the weather. Once full the oily waste is disposed of through Heritage Crystal Clean as oily waste. Sediment is collected in a walled area protected from the weather and allowed to dry out. The facility had sediment tested for metals in 2010 and the results were well below maximum concentration for TCLP. Twenty cubic yards of soil were removed by FCC Environmental 9/23/13. The receipt indicates a sniffer test was also passed.

The parts department has an empty parts washer that has been out of service for some time. A 16-gallon metal drum labeled "oil rags" was observed in this area. The facility was advised that this container should be kept closed and if CRC Brakleen is used in this department the label should say either "hazardous waste" or "Excluded Solvent-Contaminated Wipes" depending on how they decide to manage solvent contaminated rags.

Receipts for used oil, used oil filters, absorbents, oily rags, and soil were reviewed. Receipts prior to February 2014 were from FCC Environmental and indicated halogens were less than 1,000 ppm. However, the four most recent receipts dated 2/4/15, 3/4/15, 3/25/15, and 4/8/15 were from Heritage Crystal Clean and total halogens could not be located on these receipts.

New Potential Violations and Areas of Concern:

Violations

Type: Violation

Rule: 273.13(d)(1), 273.14(e), 273.15(a), 273.15(c), 273.16

Explanation: Universal Waste Lamp management, labeling, 180 day accumulation time, and training.

Spent fluorescent lamps, generated from businesses, are banned from landfill disposal in Hendry County. Recycling is the recommended management option for spent fluorescent lamps.

Spent fluorescent lamps should be stored inside containers or boxes in an area and in a manner that will prevent them from breaking. Containers must be closed, structurally sound, compatible with the contents of the lamps and must lack evidence of leakage, spillage.

The containers must be clearly labeled as "Spent Lamps," "Waste Mercury Lamps," or "Used Mercury Lamps."

A handler may accumulate spent lamps for no longer than one year from the date of generation and must be able to demonstrate the length of storage time for the spent lamp or device. It is recommended that the facility date the container managing the spent fluorescent lamps to document when a lamp was first placed into it.

A handler shall ensure that all its employees, involved with the management of universal waste lamps or devices, are trained in the proper handling (e.g., packaging and preventing breakage) and emergency cleanup and containment procedures applicable to its handling of spent universal waste lamps or devices. These emergency procedures must be kept at the business location of the handler and shall be made available for inspection upon request by the Department.

The facility stores spent fluorescent lamps in appropriate containers incorrectly labeled "non-hazardous waste". It was not determined at the time of the inspection if the lamps were labeled. Documentation of recycling was not available during the inspection.

Inspection Date: 04/21/2015

Corrective Action: Please re-label the containers with the words "Spent Lamps," "Waste Mercury Lamps," or "Used Mercury Lamps."

The facility must demonstrate that lamps are stored less than one year. Dating the container is a recommended method of achieving this.

Please provide recycling documentation for spent lamps OR a description of how the lamps will be recycled within the next year.

Conclusion:

In accordance with Code of Federal Regulations Chapter 262.11, a person who generates a solid waste must determine if that waste is a hazardous waste using the following method: Determine if the waste is excluded from regulation; Determine if the waste is a listed hazardous waste. If the waste is not listed, the generator must determine whether the waste is hazardous waste by either: testing the waste according to specified methods; or applying knowledge of the hazardous characteristic of the waste in light of the materials or the processes used.

The facility must make a hazardous waste determination on aqueous parts washer waste prior to disposal. The facility may do this with analytical testing of a representative sample of the waste stream. The sample can be of the waste as generated when drained from the parts washer OR a composite sample of a full drum of the waste stream. The facility may also use product and process knowledge. As a CESQG the facility may also assume the waste is hazardous and mix it with used oil with the permission of the used oil hauler.

The drum collecting used oil from draining filters must be kept closed except when actively adding or removing oil from the drum. Although this drum is located indoors it is possible that a discharge from the drum could travel to a doorway a few feet away and it is recommended the facility provide secondary containment. Secondary containment should have the capacity to hold 110% of the volume of the largest tank or container within the containment area.

The facility should decide if disposable wipes contaminated with Brake Cleaner will be managed as hazardous waste (properly manifested) and labeled "hazardous waste" OR handled under the wipes exclusion. If they chose to use the exclusion the label should say "Excluded Solvent-Contaminated Wipes". A stencil and guidance document on this topic were provided during the inspection.

The facility must be able to document proper disposal of all waste streams for a minimum of three years. Documentation for disposal of solvent waste from aerosol puncturing was not available for inspection. The previous report also noted lack of documentation for this waste stream. Please ensure disposal of this waste stream is documented. If disposable is less frequent than three years it is recommended the most recent documentation be retained to confirm this.

Total halogens for used oil must be less than 1,000 ppm. The facility should work with Heritage Crystal Clean to ensure that total halogens are noted on the receipts prior to signing.

Inspection Date: 04/21/2015

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.

Laura M. Comer

PRINCIPAL INSPECTOR NAME

Environmental Specialist III

PRINCIPAL INSPECTOR TITLE

FDEP South

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.