

## Lemonius, Catherine

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**From:** Lemonius, Catherine  
**Sent:** Thursday, May 19, 2016 12:31 PM  
**To:** 'Gene.Cieply@eqonline.com'  
**Cc:** SWD\_Clerical (Shared Mailbox); Yeargan, Mary; Boatwright, Kelley M.; Vaughn, Richard; 'Stuart.Stapleton@usecology.com'; Knauss, Elizabeth  
**Subject:** EQ Florida, Inc. - Proposed Consent Order with Cover Letter and Worksheets - OGC # 16-0275 - Hillsborough County

Sent on behalf of Rick Vaughn

Dear Mr. Cieply:

Attached, please find the above subject document. In an effort to reduce costs and waste, our agency is moving to electronic rather than paper correspondence. This is the only copy that you will receive, unless you request otherwise.

Acrobat Reader 6.0 or greater is required to read this document. It is available for downloading at <http://www.adobe.com/products/acrobat/readstep.html>

If you have any question concerning the contents of the attached document, please contact the FDEP Environmental Manager Richard Vaughn at (813) 470-5799 or via email [richard.vaughn@dep.state.fl.us](mailto:richard.vaughn@dep.state.fl.us) .

Sincerely,

Catherine

Catherine Lemonius  
Administrative Secretary  
Department of Environmental Protection  
13051 North Telecom Parkway  
Temple Terrace, FL 33637-0926



# Florida Department of Environmental Protection

Southwest District Office  
13051 North Telecom Parkway  
Temple Terrace, FL 33637-0926

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Jonathan P. Steverson  
Secretary

May 19, 2016

Mr. Gene Cieply, General Manager  
EQ Florida, Inc. d/b/a US Ecology  
7202 East 8<sup>th</sup> Avenue  
Tampa, FL 33619-3380  
[Gene.Cieply@eqonline.com](mailto:Gene.Cieply@eqonline.com)

Re: Proposed Consent Order OGC File No. 16-0275  
EQ Florida, Inc.  
Facility ID #FLD981932494  
Hillsborough County

Dear Mr. Cieply:

Enclosed is the proposed Consent Order, OGC File No. 16-0275, regarding the above-referenced facility. Please review, sign and return the Consent Order within **15 days** of receipt of this letter, if in agreement. If not in agreement, please contact the Department immediately. Upon return of the signed Consent Order, I shall execute it, and a copy will be sent to you.

The executed Consent Order constitutes final agency action of the Department, which shall be enforceable pursuant to Sections 120.69 and 403.121, Florida Statutes. By countersigning the Consent Order, the Department waives its right to seek judicial imposition of damages, costs and expenses, or civil penalties for the alleged violations. By signing the Consent Order, you, as the Respondent, acknowledge and waive your right to a hearing and appeal of the terms of the Consent Order.

If the signed original Consent Order is not received by the Department within 15 days, the Department will assume that you are not interested in the settlement on the above terms, and the matter may be referred to the Office of General Counsel for formal enforcement action. None of your rights or substantial interests are determined by the Consent Order until it is signed and filed with the Department.

EQ Florida, Inc.  
OGC # 16-0275  
Page 2

Should you have any questions, please contact Mr. Rick Vaughn at (813) 470-5799, or via e-mail at [richard.vaughn@dep.state.fl.us](mailto:richard.vaughn@dep.state.fl.us). Thank you for your cooperation.

Sincerely yours,



Mary E. Yeargan, PG  
Southwest District Director  
Florida Department of Environmental Protection  
MEY/rv/kmh

cc: Stuart Stapleton, EQ Florida, Inc. ([Stuart.Stapleton@usecology.com](mailto:Stuart.Stapleton@usecology.com))

Enclosures: Proposed Consent Order #16-0275

BEFORE THE STATE OF FLORIDA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF FLORIDA DEPARTMENT )  
OF ENVIRONMENTAL PROTECTION )  
 )  
v. )  
 )  
EQ FLORIDA, INC. )  
d/b/a/ US ECOLOGY )  
\_\_\_\_\_ )

IN THE OFFICE OF THE  
SOUTHWEST DISTRICT

OGC FILE NO. 16-0275  
EPA ID NO. FLD981932494

**CONSENT ORDER**

This Consent Order (Order) is entered into between the State of Florida Department of Environmental Protection (Department) and EQ Florida, Inc., d/b/a US Ecology, (Respondent) to reach settlement of certain matters at issue between the Department and Respondent.

The Department finds and Respondent admits the following:

1. The Department is the administrative agency of the State of Florida having the power and duty to administer and enforce the provisions of the Florida Resource Recovery and Management Act, sections 403.702, et seq., Florida Statutes, and the rules promulgated in chapter 62-730 of the Florida Administrative Code. The Department has jurisdiction over the matters addressed in this Order.

2. Respondent is a "person" within the meaning of sections 403.031(5) and 403.703(22), Florida Statutes.

3. Respondent is a for-profit business, incorporated under the laws of the State of Michigan that is registered and authorized to transact business in the State of Florida. Respondent operates a permitted hazardous waste treatment, storage and disposal facility (TSDF), a hazardous waste transfer facility, and a solid waste materials processing facility on real property located at 2002 North Orient Road and 7202 East 8th Avenue in Tampa, Florida

(Facility). Respondent is the “owner” and “operator” of the Facility as defined in rule 62-730.020, Florida Administrative Code.

4. Respondent currently holds record title to the contiguous parcels of real property described in Paragraph 3, above (Property).

5. The Department issued Hazardous Waste Permit Number 34875-HO-011 and Solid Waste Permit Number 34757-010/SO/30 as a single document (Permit) to Respondent on April 1, 2014. The Permit authorizes Respondent to perform the work or operate the facility shown on the application dated November 2013 - Revision 01 (Permit Application) and is incorporated into the Permit. Permit Condition I.9., states that the conditions in the Permit take precedence over the Permit Application where there are differences. The Permit expires on April 1, 2019.

6. The Department and Respondent met on April 30, 2015, to discuss the hazardous waste treatment procedures in place at the Facility since the beginning of 2015. On May 29, 2015, the Department issued a letter summarizing those discussions. Respondent did not apply for a formal permit modification at that time, and no permit modification has been issued by the Department. The Department's letter dated May 29, 2015, is attached and incorporated into this Order as Exhibit I.

7. Respondent's operations at the Facility are described in Exhibit II, which is attached and incorporated in this Order.

8. The Department finds that the following violations occurred:

- a) Respondent failed to keep all containers holding hazardous waste generated on site closed unless adding or removing waste, as required by rule 62-730.160(1), Florida Administrative Code, which adopts rule 40 Code of Federal Regulations (C.F.R.) 262.34(a)(1)(i).
- b) Respondent failed to mark all hazardous waste storage containers with the date upon which the waste first began accumulating, as required by rule 62-730.160(1), Florida Administrative Code, which adopts rule 40 C.F.R. 262.34(a)(2).

- c) Respondent failed to clearly label all hazardous waste storage containers with the words "Hazardous Waste," as required by rule 62-730.160(1), Florida Administrative Code, which adopts rule 40 C.F.R. 262.34(a)(3).
- d) Respondent failed to ensure all employees received a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with applicable federal requirements, as required by rule 62-730.180(1), Florida Administrative Code, which adopts rule 40 C.F.R. 264.16(a)(1).
- e) Respondent failed to provide adequate secondary containment for all containers of hazardous waste containing free liquid at the Facility, as required by rule 62-730.180(1), Florida Administrative Code, which adopts rule 40 C.F.R. 264.175(a).
- f) Respondent failed at least once to record significant discrepancies on hazardous waste manifests returned to generators, as required by rule 62-730.180(1), Florida Administrative Code, which adopts rule 40 C.F.R. 264.71(a)(2)(ii).
- g) Respondent failed to comply with the Permit by not providing adequate secondary containment for vehicles and trailers that are in the transfer facility for more than 24-hours and by not providing adequate emergency liquid containment for all vehicle trucks, roll-offs and tractor trailers on the Property, as required by Permit Condition II.B.14, Section 8.2 of the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- h) Respondent failed to comply with the Permit by not using the inspection form submitted as part of the permit application and approved by the Department, as required by Permit Condition II.B.5, Section 5.4 of the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- i) Respondent failed to comply with the Permit by utilizing the transfer facility to store hazardous waste for which Respondent was the designated TSDF

on the manifest, as required by Permit Authorization of Specifically Described RCRA-regulated Permitted Unit #4, and sections 403.727(1)(a) and (c), Florida Statutes.

- j) Respondent failed to comply with the Permit by not unloading bulk containers of hazardous waste within five days of arrival at the Facility, as required by Permit Condition II.B.15., Section 11.2 of the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- k) Respondent failed to comply with the Permit by not ensuring the amount of waste in the hazardous waste transfer facility was 20,000-gallons or less, as required by the Appendix A of the Permit, the Closure Plan in the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- l) Respondent failed to properly characterize waste from the sump in the north side of the treatment building before treating it in the hazardous waste treatment tank, as required by rule 62-730.180(1), Florida Administrative Code, which adopts rule 40 C.F.R. 264.13(a)(1), Permit Condition II.A.5, Section 4 - Waste Analysis Plan of the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- m) Respondent failed to comply with the Permit by removing treated hazardous waste from the treatment tank before analyses showed the treated waste met universal treatment standards set forth in title 40, C.F.R. 268, as required by Permit Conditions II.A.5 and II.B.15, Section 4 - Waste Analysis Plan of the Permit Application, and sections 403.727(1)(a) and (c), Florida Statutes.
- n) Respondent failed to correctly complete all hazardous waste manifests by not assigning and recording correct Management Method Codes for hazardous waste received at the Facility, as required by rule 62-730.180(1), Florida Administrative Code, which adopts rule 40 C.F.R. 264.71.
- o) Respondent failed to comply with the Permit by storing solid waste outside of the authorized areas at the Facility, as required by Permit Condition

V.B.10.a.(2), Section 6.1.5 of the Engineering Report in the Permit Application, rule 62-701.320(1), Florida Administrative Code and section 403.161(1)(b), Florida Statutes.

p) Respondent failed to comply with the Permit by using only one piece of heavy equipment in the treatment building instead of two dedicated pieces of equipment, as required by Permit Condition V.B.10.b.(1), Attachment E of the Permit, Section 5.6.2 and Figure 9A of the Engineering Report in the Permit Application, rule 62-701.320(1), Florida Administrative Code, and section 403.161, Florida Statutes.

q) Respondent failed to comply with the Permit by not immediately providing the Department with a description of the noncompliance, the period of noncompliance, and any steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance, as required by Permit Condition I.12.a. and sections 403.727(1)(a) and (c), Florida Statutes.

Having reached a resolution of the matter Respondent and the Department mutually agree and it is

**ORDERED:**

9. Effective immediately, Respondent shall comply with all Department rules regarding hazardous waste management. Respondent shall correct and redress all violations within the time periods stated below and shall comply with all applicable sections in chapter 62-730, Florida Administrative Code and title 40, C.F.R. Parts 260 through 266 and Part 268. All time periods shall run from the effective date of this Order.

a) Upon the effective date of this Order, the letter attached and incorporated into this Order as Exhibit I is rescinded. Respondent shall comply with the Permit referenced in Paragraph 5 above until it expires or a modification to the Permit is issued by the Department.



- b) Immediately upon the effective date of this Order, Respondent shall keep all containers holding hazardous waste closed, except when it is necessary to add or remove waste.
- c) Immediately upon the effective date of this Order, Respondent shall mark all containers in which hazardous waste is placed with the day waste was first accumulated in the container.
- d) Immediately upon the effective date of this Order, Respondent shall mark all storage containers of hazardous waste with the words "Hazardous Waste."
- e) Within 30 days of the effective date of this Order, Respondent shall ensure that Facility personnel have successfully completed a program of hazardous waste training. The classroom instruction or the on-the-job training shall be structured so as to teach personnel to perform their duties in a way that ensures that the Facility will be in compliance with the requirements of hazardous waste regulations and the Permit.
- f) Immediately upon the effective date of this Order, Respondent shall provide appropriate secondary containment for all containers, including bulk containers, storing hazardous waste at the Facility. This includes all inbound and outbound hazardous waste containers, at all times, while the waste is physically located anywhere on the Property.
- g) Immediately upon the effective date of this Order, Respondent shall begin recording all significant discrepancies on hazardous waste manifests before returning them to generators.
- h) Immediately upon the effective date of this Order, Respondent shall ensure that all service vehicle trucks, roll-offs and tractor trailers are situated over a manmade surface having emergency liquid containment or at one of the unloading areas in front of the container storage building when the vehicle, truck, roll-off or tractor trailer contains hazardous waste. Respondent shall additionally ensure that secondary containment is provided for any vehicle,

truck, roll-off or tractor trailer parked for more than 24-hours in the transfer facility.

- i) Immediately upon the effective date of this Order, Respondent shall use all forms specified in the Permit. If a revised version of any form has been submitted and approved by the Department, Respondent shall use the most recently approved version.
- j) Immediately upon the effective date of this Order, Respondent shall operate the hazardous waste transfer facility in accordance with the authorization in the Permit. Respondent shall not use the transfer facility for any waste where Respondent is the designated TSDf on the manifest or that originated at the Facility with Respondent listed as the generator.
- k) Immediately upon the effective date of this Order, Respondent shall unload inbound bulk hazardous waste shipments manifested to Respondent within five consecutive calendar days (excluding holidays) of arrival at the Facility.
- l) Immediately upon the effective date of this Order, Respondent shall not use the hazardous waste transfer facility to store hazardous waste treated on site.
- m) Immediately upon the effective date of this Order, Respondent shall ensure that the volume of all waste in the hazardous waste transfer facility never exceeds 20,000-gallons.
- n) Immediately upon the effective date of this Order, Respondent shall ensure that the volume of hazardous waste, excluding 10-day transfer waste, at the Facility never exceeds 50,000-gallons. This includes all inbound and outbound hazardous waste, at all times, while the waste is physically located anywhere on the Property.
- o) Immediately upon the effective date of this Order, Respondent shall properly characterize all hazardous waste treated in the hazardous waste treatment tank, including wastes generated at the Facility. Respondent shall not

treat characteristically hazardous metal bearing and corrosive wastes that contain organic underlying hazardous constituents listed in rule 40 C.F.R. 268.48. Respondent shall not treat hazardous wastes that were received accompanied by land disposal restriction certifications for lab packs under rule 40 C.F.R. 268.7(a)(9) without determining that underlying hazardous constituents are not present in the waste.

p) Immediately upon the effective date of this Order, Respondent shall not remove treated hazardous waste from the hazardous waste treatment tank until the waste is no longer characteristically hazardous and meets universal treatment standards, as determined by obtaining a representative sample of the treated waste and analyzing it using EPA Test Method 1311 and in accordance with Title 40, C.F.R., Part 268.

q) Immediately upon the effective date of this Order, Respondent shall ensure that the correct Management Method Codes for all hazardous waste received at the Facility are recorded on the associated hazardous waste manifests.

r) Immediately upon the effective date of this Order, Respondent shall store solid waste only in areas that are authorized by the Permit.

s) Immediately upon the effective date of this Order, Respondent shall obtain and use two dedicated pieces of heavy equipment, one for solid waste processing, and one for hazardous waste processing, or Respondent shall maintain a log that clearly documents decontamination each time the single piece of equipment switches from one treatment tank to the other treatment tank. Respondent shall also perform and document decontamination of the equipment when moving from one characteristically hazardous category or group (e.g., metals) to another (e.g., corrosives).

t) Immediately upon discovery of noncompliance with any condition or limitation specified in the Permit, Respondent shall notify the Department and

provide a description of the noncompliance, the period of noncompliance, and any steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance. For the purposes of this paragraph, "immediately" shall mean within 24 hours of discovery.

10. Within 60 days of the effective date of this Order, Respondent shall submit a written estimate of the total cost of the corrective actions required by this Order to the Department. The written estimate shall identify the information the Respondent relied upon to provide the estimate.

11. Within 30 days of the effective date of this Order, Respondent shall pay the Department \$79,699.00 in settlement of the matters addressed in this Order. This amount includes \$1,000.00 for costs and expenses incurred by the Department during the investigation of this matter and the preparation and tracking of this Order. The civil penalty in this case includes 12 violations that each warrant a penalty of \$2,000.00 or more.

12. Respondent agrees to pay the Department stipulated penalties in the amount of \$100.00 per day for each and every day Respondent fails to timely comply with any of the requirements of Paragraph 9 of this Order. A separate stipulated penalty shall be assessed for each violation of this Order, and the Department may demand stipulated penalties at any time after violations occur. Respondent shall pay stipulated penalties owed within 30 days of the Department's issuance of written demand for payment, and shall do so as further described in Paragraph 13, below. Nothing in this Paragraph shall prevent the Department from filing suit to specifically enforce any terms of this Order. Any stipulated penalties assessed under this Paragraph shall be in addition to the civil penalties agreed to in Paragraph 11 of this Order. If the Department is required to file a lawsuit to recover stipulated penalties under this Paragraph, the Department will not be foreclosed from seeking civil penalties for violations of this Order in an amount greater than the stipulated penalties due under this Paragraph.

13. 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 both the OGC number

assigned to this Order and the notation "Water Quality Assurance 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 becomes final and effective filed with the Clerk of the Department before ability to make online payment is available.

14. Except as otherwise provided, all submittals and payments required by this Order shall be sent to the Department of Environmental Protection, Southwest District Office, Compliance Assurance Program, 13051 North Telecom Parkway, Temple Terrace, FL, 33637-0926.

15. Respondent shall allow all authorized representatives of the Department access to the Facility and the Property at reasonable times for the purpose of determining compliance with the terms of this Order and the rules and statutes administered by the Department.

16. Respondent shall use all reasonable efforts to obtain any necessary access to implement the terms of this Order. If necessary access cannot be obtained, or if obtained, is revoked by owners or entities controlling access to the properties to which access is necessary, Respondent shall notify the Department within five business days of such refusal or revocation. The Department may at any time seek to obtain access as is necessary to implement the terms of this Order. Respondent shall reimburse the Department for any damages, costs, or expenses, including expert and attorney's fees, that the Department is ordered to pay, or that the Department incurs in connection with its efforts to obtain access that is necessary to implement the terms of this Order. Respondent shall pay these sums to the Department or arrange a payment schedule with the Department within 30 days of written demand by the Department.

17. In the event of a sale or conveyance of the Facility or of the Property upon which the Facility is located, if all of the requirements of this Order have not been fully satisfied, Respondent shall, at least 30 days prior to the sale or conveyance of the Facility or Property, (a) notify the Department of such sale or conveyance, (b) provide the name and address of the purchaser, operator, or person(s) in control of the Facility, and (c) provide a copy of this Order

with all attachments to the purchaser, operator, or person(s) in control of the Facility. The sale or conveyance of the Facility or the Property does not relieve Respondent of the obligations imposed in this Order.

18. If any event, including administrative or judicial challenges by third parties unrelated to Respondent, occurs which causes delay or the reasonable likelihood of delay in complying with the requirements of this Order, Respondent shall have the burden of proving the delay was or will be caused by circumstances beyond the reasonable control of Respondent and could not have been or cannot be overcome by Respondent's due diligence. Neither economic circumstances nor the failure of a contractor, subcontractor, materialman, or other agent (collectively referred to as "contractor") to whom responsibility for performance is delegated to meet contractually imposed deadlines (unless the cause of the contractor's late performance was also beyond the contractor's control) shall be considered circumstances beyond the control of Respondent. Upon occurrence of an event causing delay, or upon becoming aware of a potential for delay, Respondent shall notify the Department by the next working day and shall, within seven calendar days notify the Department in writing of the anticipated length and cause of the delay, the measures taken or to be taken to prevent or minimize the delay, and the timetable by which Respondent intends to implement these measures. If the parties can agree that the delay or anticipated delay has been or will be caused by circumstances beyond the reasonable control of Respondent, the time for performance hereunder shall be extended. The agreement to extend compliance must describe the provision or provisions extended, the new compliance date or dates, and the additional measures respondent must take to avoid or minimize the delay, if any. Failure of Respondent to comply with the notice requirements of this Paragraph in a timely manner constitutes a waiver of Respondent's right to request an extension of time for compliance for those circumstances.

19. The Department, for and in consideration of the complete and timely performance by Respondent of all the obligations agreed to in this Order, hereby conditionally waives its right to seek judicial imposition of damages or civil penalties for alleged violations

up to the date of the filing of this Order. This waiver is conditioned upon Respondent's complete compliance with all of the terms of this Order.

20. The Department hereby expressly reserves the right to initiate appropriate legal action to address any violations of statutes or the rules administered by the Department that are not specifically resolved by this Order. Nothing herein shall be construed to limit the Department's authority to take any action against Respondent in response to or to recover the costs of responding to conditions at or from the Facility that require Department action to abate an imminent hazard to the public health, welfare, or the environment.

21. This Order is a settlement of the Department's civil and administrative authority arising under Florida law to resolve the matters addressed herein. This Order is not a settlement of any criminal liabilities which may arise under Florida law, nor is it a settlement of any violation which may be prosecuted criminally or civilly under federal law. Entry of this Order does not relieve Respondent of the need to comply with applicable federal, state, or local laws, rules, or ordinances.

22. Respondent is fully aware that a violation of the terms of this Order may subject Respondent to judicial imposition of damages, civil penalties up to \$50,000.00 per day per violation, and criminal penalties.

23. Respondent acknowledges and waives its right to an administrative hearing pursuant to sections 120.569 and 120.57, Florida Statutes, on the terms of this Order. Respondent also acknowledges and waives its right to appeal the terms of this Order pursuant to section 120.68, Florida Statutes.

24. 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 shall be effective until reduced to writing, executed by both Respondent and the Department, and filed with the clerk of the Department.

25. The terms and conditions set forth in this Order may be enforced in a court of competent jurisdiction pursuant to sections 120.69 and 403.121, Florida Statutes. Failure to

comply with the terms of this Order shall constitute a violation of section 403.161(1)(b), Florida Statutes.

26. This Consent Order is a final order of the Department pursuant to section 120.52(7), Florida Statutes, and it is final and effective on the date filed with the Clerk of the Department unless a Petition for Administrative Hearing is filed in accordance with chapter 120, Florida Statutes. Upon the timely filing of a petition, this Order will not be effective until further order of the Department.

27. Respondent shall publish the following notice in a newspaper of daily circulation in Hillsborough County, Florida. The notice shall be published one time only within 14 days of the effective date of the Order.

STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF CONSENT ORDER

The Department of Environmental Protection gives notice of agency action of entering into a Consent Order with EQ FLORIDA, INC., d/b/a US Ecology, pursuant to section 120.57(4), Florida Statutes. The Consent Order addresses the hazardous and solid waste operations at 2002 North Orient Road and 7202 East 8th Avenue, Tampa, Florida, 33619. The Consent Order is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at the Department of Environmental Protection, Southwest District, 13051 North Telecom Parkway, Temple Terrace, Florida, 33637-9026.

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 in Paragraph 14, 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. Before the deadline for filing a petition, a person whose substantial interests are affected by this Order may choose to pursue mediation as an alternative remedy under section 120.573, Florida Statutes. Choosing mediation will not adversely affect such person's right request an administrative hearing if mediation does not result in a settlement. Additional information about mediation is provided in Section 120.573, Florida Statutes and rule 62-110.106(12), Florida Administrative Code.

28. Rules referenced in this Order are available at

<http://www.dep.state.fl.us/legal/Rules/rulelist.htm>.

FOR THE RESPONDENT  
EQ Florida, Inc.:

\_\_\_\_\_  
Jeffrey R. Feeler, Director                      DATE

DONE AND ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2016, 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, Florida Statutes, with the designated  
Department Clerk, receipt of which is hereby acknowledged.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date

Copies furnished to:

Lea Crandall, Agency Clerk  
Mail Station 35

OGC #16-0275

EXHIBIT I



**FLORIDA DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

BOB MARTINEZ CENTER  
2600 BLAIR STONE ROAD  
TALLAHASSEE, FLORIDA 32399-2400

RICK SCOTT  
GOVERNOR

CARLOS LOPEZ-CANTERA  
LT. GOVERNOR

JONATHAN P. STEVERSON  
SECRETARY

May 29, 2015

**Sent Via Email**

[Stuart.Stapleton@usecology.com](mailto:Stuart.Stapleton@usecology.com)

Mr. Stuart Stapleton  
EHS Manager  
EQ Florida, Inc.  
7202 East 8<sup>th</sup> Avenue  
Tampa, FL 33619

**Re: Post-Stabilization Temporary Staging Procedures Discussed for EQ Florida, Inc. at Meeting Held at DEP SW District Office and via Teleconference with DEP Tallahassee on 4-30-15**  
FLD 981 932 494; Operation & Construction Permit: 34875-HO-011

Dear Mr. Stapleton:

The Department is in agreement that the temporary staging of post-treatment roll-off containers is allowed within the permitted Hazardous Waste Transfer & Staging (T&S) Area defined by the referenced permit. A summary of our meeting notes is provided below.

**1. Discussion**

In general, all discussion was related to the new hazardous waste treatment procedures in place at EQ since the beginning of 2015. EQ had three (3) main questions to pose to District and Tallahassee staff regarding the current Operating and Construction Permit (34875-HO-011):

- A. Can the treated product be staged anywhere within the permitted 10-day Hazardous Waste T&S Area?
- B. Is the treated waste still considered 'hazardous waste' after treatment? And, if not, can they do away with the need for secondary containment within the T&S Area?
- C. In time, once production is at maximum capacity, what would it take to increase the footprint of the existing T&S Area to comprise nearly the entire property (south side of E. 9<sup>th</sup> Avenue in the area of the corporate office)?

**2. Roundtable**

- A. It was agreed that the roll-offs containing treated (stabilized) waste could be staged anywhere within the currently permitted T&S Area if the following protocols were followed at all times:
  - a. Roll-offs are to be staged within secondary containment until transfer.

- b. Roll-offs can only be staged within the T&S Area until laboratory analytical data is received, which according to EQ, would be approximately 2 days.
  - c. Roll-offs will remain classified as hazardous waste until laboratory analytical confirmation proves otherwise [or until EQ substantiated that their processing and treatment are consistent and the hazardous waste materials are consistent].
  - d. No liquids remain within the roll-offs after treatment.
  - e. Any treated waste yielding confirmatory results which 'failed' will, upon notification of this result, be immediately transferred from the T&A Area back to the treatment area for re-processing.
  - f. All containers shall be clearly labelled and dated with respect to the material that is being treated so that inspectors can clearly determine the status of each container (e.g., treated material pending analysis, etc.).
- B. As in '2Ac' above, treated (stabilized) hazardous waste would continue to be classified as hazardous waste and would require the need for secondary containment until the waste was de-characterized and met land disposal restriction (LDRs) requirements, based upon laboratory data. In addition, the T&S Area, while mostly asphalt-covered, does have bare ground areas near the fenceline and is not bermed to prevent any accidental releases (should any unsuspected liquids be present).
- C. In order to increase the permitted T&S Area, it would take a Permit Modification in addition to redevelopment of the property to ensure the entire Area is property sealed and bermed.

If you should have any questions, please contact me at (850) 245-8765 or via email at [Carrie.L.Kruchell@dep.state.fl.us](mailto:Carrie.L.Kruchell@dep.state.fl.us) .

Sincerely,



Carrie L. Kruchell, PG  
Hazardous Waste Program and Permitting

/clk

cc: Beth Knauss, DEP SW District – [Elizabeth.Knauss@dep.state.fl.us](mailto:Elizabeth.Knauss@dep.state.fl.us)  
Steve Morgan, DEP SW District – [Steve.Morgan@dep.state.fl.us](mailto:Steve.Morgan@dep.state.fl.us)  
Anthony Tripp, DEP Tallahassee – [Anthony.Tripp@dep.state.fl.us](mailto:Anthony.Tripp@dep.state.fl.us)  
Brian Bastek, USEPA Region 4 – [Bastek.Brian@epa.gov](mailto:Bastek.Brian@epa.gov)

OGC #16-0275

EXHIBIT II



**Florida Department of  
Environmental Protection  
Hazardous Waste Inspection Report**

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**FACILITY INFORMATION:**

**Facility Name:** EQ Florida Inc

**On-Site Inspection Start Date:** 08/14/2015      **On-Site Inspection End Date:** 08/14/2015

**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:**

Routine Inspection for TSD Facility Unit Type(s)

Routine Inspection for Transfer Facility

Routine Inspection for Hazardous Waste Transfer Facility

Routine Inspection for Used Oil Transfer Facility

Routine Inspection for Used Oil Generator facility

Routine Inspection for LQG (>1000 kg/month) facility

**INSPECTION PARTICIPANTS:**

**Principal Inspector:** Kelly M. Honey, Environmental Specialist III

**Other Participants:** Melissa Madden, Engineering Specialist III; Leslie Pedigo, Environmental Specialist III; Ken Dean, Operations Manager; Nancy Gaskin, Facility Specialist

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

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

**TYPE OF OWNERSHIP:** Private

**Introduction:**

EQ Florida, Inc., (EQ) was inspected for compliance with state and federal hazardous waste and solid waste rules. The inspection was also to determine compliance with its operating permit, which was most recently renewed and effective on April 1, 2014. The single permit has two associated permit numbers and covers operation of a hazardous waste container storage facility, construction and operation of a hazardous waste treatment tank, and operation of a hazardous waste transfer facility under #34875-HO-11, operation of a solid waste materials processing facility under #34757-010/SO/30, and facility-wide corrective action under both numbers. After the permit was issued, EQ requested that they be allowed to modify their operations to allow staging of treated waste on site prior to receipt of analytical results. The Department issued a letter on May 29, 2015, with conditional approval of some alternate operating procedures, however a formal permit modification has not been issued. Solid waste operations were inspected on behalf of the Department by Melissa Madden, and the hazardous waste operations were inspected by Kelly Honey and Leslie Pedigo. The report detailing the results of the solid waste operations inspection will be issued separately.

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The facility has been inspected numerous times by the Department's Hazardous Waste Section, most recently on May 22, 2013. Additionally, the Department took enforcement against EQ for an incident that occurred in November of 2014 involving the improper characterization and transportation of hazardous waste and disposal of characteristically hazardous waste that did not meet universal treatment standards to a Subtitle D landfill. This incident was self-reported by EQ, and the enforcement case was closed by the Department on May 13, 2015. The inspectors were accompanied throughout the inspection by Ken Dean, Operations Manager, and Nancy Gaskin, Facility Specialist.

### **Process Description:**

Hazardous waste is primarily stored in the facility's hazardous waste container storage building, which consists of a building and a covered loading dock. The building is totally enclosed with three bays. The center bay (#2) is permitted to store ignitable and reactive wastes not to exceed 10,000-gallons. Bays #1 and #3 are on opposite ends of the building and each has a permitted capacity of 20,000-gallons. The capacity of the storage building, all loading docks and basically the entirety of SWMUs #1 and #2. Incoming materials are checked in and counted against the manifest(s), entered into the facility's computerized tracking system and staged for QA/QC inspection under the facility's waste analysis plan. Once the identity of the material has been confirmed, wastes are moved to appropriate storage bays.

Inspection of the north property included the Waste Management (Container Storage) Building, the Covered Processing Area, the Staging Area and the universal waste lamp storage trailer. There were no violations observed during this portion of the inspection. Additionally, it appeared that there was less than 50,000-gallons of waste on the north property.

Outgoing materials that have been prepared for shipment off site are also staged for transport in the bays and then loaded into trailers as the shipping papers are being prepared. After loading, trailers may be moved to a parking area on contiguous property south of 9th Avenue and held for several days prior to pickup by the transporter. Any trailer holding hazardous waste either remains in the covered loading dock on the north property or is provided with "pop up" containment. It was unclear whether vehicles are also parked in the Solid Waste Operations Area (SWMU #10) adjacent to the main office building. If vehicles holding hazardous waste are being parked in SWMU #10, EQ should immediately cease this practice since this area is for storage of nonhazardous waste only.

There is some concern that waste on the south property awaiting transport may not always be provided with adequate containment since the referenced area on the south property does not have secondary containment. Vehicles with liquid wastes must be provided with secondary containment as specified in Part 264, and in many cases, the "pop up" containments, aside from being damaged, etc., may not have the required available volume. There is also the issue of the available waste capacity of SWMU #11, which by permit, is only 100-cubic yards, or 20,000-gallons.

EQ received Department approval to begin operation of its hazardous waste treatment tank on November 5, 2014. The hazardous waste treatment tank is located in the Waste Processing Building, as is the solid waste solidification tank. The floor under the two units was not constructed or sloped to direct spillage to separate sumps. It also appears that the same loading and mixing equipment is being used in both systems, without decontamination between batch mixing, though the permit drawings indicate otherwise. As a result, EQ has determined that the wastewater and spillage collected on both sides of the treatment building will be treated as hazardous waste prior to treatment and disposal.

The Department has numerous concerns about compliance on the south property, most of which are associated with the management of hazardous waste after it has been treated, but before it is confirmed to meet TCLP and universal treatment standards as required by EQ's permit and by Rule. Based on the observations made during this inspection, and review of the associated paperwork subsequently provided by EQ, there are many permit violations occurring. Additionally, on May 29, 2015, the Department sent a letter to EQ after a teleconference that occurred on April 30, 2015, between EQ and the Department. The letter summarizes the teleconference and sets forth conditional approval requirements that must be met in



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order for the facility to store treated hazardous waste anywhere within SWMU #11.

It should be noted that this teleconference occurred after the treatment of batch 43, which is discussed in greater detail later in this report, and it appears that the Department may not have been provided with all relevant information related to the issues under discussion.

Review of records revealed many errors in recordkeeping, including inspection logging and manifest errors. Several areas where personnel training is lacking were also identified both during and after the inspection.

Since EQ is not in compliance with either its permit or the conditions set forth in the May 29, 2015, letter from the Department, regarding the treatment of hazardous waste and its subsequent storage on site until it is confirmed to meet treatment standards, it must request a formal permit modification in order to memorialize and establish operating conditions for this agreement within 90 days, or the Department intends to withdraw its conditional approval for staging this material outside the treatment building.

The unit that the new treatment tank replaced (i.e., the filter press) was located on the north property, and as such, was included in the maximum allowable storage limit for the container storage operations. The Department estimates the treatment tank capacity to be approximately 11,000-gallons or 54-cubic yards. The modification application should also address the volume of the treatment tank as it relates to the maximum permitted capacity of the facility, specifically, whether it is being applied to the 50,000-gallon limit permitted for container storage on the north property or whether this is additional capacity being requested.

## New Potential Violations and Areas of Concern:

### Violations

Type:	Violation
Rule:	262.34(a)(1)(i)
Explanation:	At the time of the inspection, the container of hazardous wastewater collected from the sump in the north side of the treatment building was open.
Corrective Action:	262.34(a)(1)(i) - a generator may accumulate hazardous waste on-site for 90 days or less provided the waste is placed in containers, and the generator complies with the applicable requirements of Subparts I of 40 CFR part 265 —Use and Management of Containers. Among other things, this subpart requires containers holding hazardous waste to be closed except when it is necessary to add or remove waste (40 CFR 265.173(a)).
	EQ must ensure that it is complying with all rules applicable to generators for hazardous waste generated on site, including keeping containers closed.

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Type:	Violation
Rule:	262.34(a)(2), 262.34(a)(3)
Explanation:	The facility collects all wastewater from the north side of the Treatment Building and treats it in the hazardous waste treatment tank. At the time of the inspection, the wastewater was being stored in an approximately 275-gallon tote container that was not labeled or marked with the date waste was first placed in the container. The container was estimated to contain at least 200-gallons.
Corrective Action:	40 CFR 262.34(a)(2) and (3) - a generator may accumulate hazardous waste on-site for 90 days or less provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each

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container and is labeled or marked clearly with the words, "Hazardous Waste."

EQ must comply with all applicable generator provisions for hazardous waste that is generated on site. Since the container is well over 55-gallons, it must the requirements for storage containers.

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Type:	Violation
Rule:	264.16(a)(1)
Explanation:	<p>At the time of the inspection, facility personnel did not seem to be familiar with the conditions set forth in the Department's letter of May 29, 2015, for storage of treated hazardous waste in SWMU #11. When the "nonhazardous" labels on the roll-offs of treated waste were pointed out, the EQ representative inaccurately stated that the contents of the roll-offs were nonhazardous, and indicated that even a provisional hazardous waste designation "pending analysis" was unnecessary.</p> <p>In addition, there appeared to be a lack of understanding about basic generator requirements, specifically in reference to the wastewater being collected from the nonhazardous side of the building. EQ representatives required an explanation of why the contents were "hazardous waste" since the wastewater was from the nonhazardous side. Facility personnel inaccurately indicated the waste was treated in the hazardous waste tank solely because the permit required it. In fact, the permit requires only the waste from the south side of the building to be treated. It was explained that EQ is required to perform a hazardous waste determination on its solid waste, and that by treating it in the hazardous waste treatment tank, EQ was in effect declaring the wastewater to be hazardous.</p> <p>Review of manifests indicates that the persons responsible for receiving hazardous waste at the facility and/or completing the associated manifests are not sufficiently trained in this activity. Management Method Codes on reviewed manifests for waste treated on site were generally incorrect. The manifest review also seemed to indicate that some EQ personnel consider the line numbers to change when waste is not shipped, even though they are preprinted on the form. For example, if waste described for line Item 9.b.1. is not shipped, some EQ personnel appear to consider Item 9.b.2. as "line 1."</p>
Corrective Action:	<p>40 CFR 265.16(a)(1) - Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part.</p> <p>EQ needs to ensure that all applicable personnel understand the conditions under which storage of treated hazardous waste in SWMU #11 was authorized.</p> <p>EQ needs to ensure that all applicable personnel have refresher training on requirements for generators. Note that if EQ is claiming that the wastewater collected from the north (nonhazardous) side is nonhazardous, it must be able to substantiate that claim with analytical results for each batch.</p> <p>EQ needs to ensure that all employees responsible for receiving hazardous waste and / or completing the associated manifests are retrained.</p>

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Type:	Violation
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Rule: 264.175(b)(3)

Explanation: The operations as described in the permit application and during the inspection raise concerns that secondary containment requirements for containers are not always met. Specifically, bulk hazardous waste received on the south property and waste to be transported off site (excluding 10-day waste) that contain free liquids appear to be routinely parked in SWMU #11 on the south property. EQ's stated operations indicate outbound loads will be parked in this area solely for the purpose of completing transportation paperwork, but until the transporter accepts the waste, it is still in EQ's possession.

Corrective Action: 40 CFR 264.175(a) - Containment systems for containers holding free liquids must have sufficient capacity to contain 10% of the volume of containers or the volume of the largest container, whichever is greater.

EQ needs to provide documentation that containers with free liquids, including portable tanks and vac trucks, are provided with adequate secondary containment at all times while on site, including when waste is received and while parked on the south property. The Department would also like EQ to provide information about how long "completing transportation paperwork" usually takes.

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Type: Violation

Rule: 264.71(a)(2)

Explanation: On April 23, 2014, EQ picked up a hazardous waste from a CSX facility on manifest #004159594JJK. EQ was also the designated facility. The waste on the manifest was said to weigh 2,200-lbs. The manifest copy returned from EQ to the facility had no discrepancies noted, but the certificate of destruction received later by CSX indicated only 301-lbs were disposed of. EQ did not issue a discrepancy notice to CSX until after CSX contacted them about it on January 24, 2015.

Additionally, manifest #013981180JJK indicates that the generator shipped approximately 4,280-gallons of hazardous waste liquid that was subsequently treated on site in EQ's hazardous waste treatment tank. The batch sheet associated with the treatment of this waste indicates only 2,100-gallons was treated, but the manifest signed by EQ has no discrepancies noted.

Corrective Action: 40 CFR 264.71(a)(2)(ii) - If the facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his agent must note any discrepancies (as defined in §264.72(a)) on each copy of the manifest.

EQ needs to ensure that facility personnel responsible for receiving hazardous waste note all significant discrepancies on the associated manifests as required.

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Type: Violation

Rule: 403.727(1)(a)

Explanation: Based on the records provided at the time of the inspection, EQ personnel are not inspecting the hazardous waste treatment tank daily. The log used to record the inspections required by Subpart J and EQ's permit does not include any documentation of inspections of the treatment tank and associated equipment (e.g., secondary containment, treatment building berms, loading / unloading areas, etc.). The log included with the permit application does

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contain a line for "On Ground Hazardous Waste Solidification Unit/Tank," but the facility is not using it. Moreover, the log they are supposed to be using doesn't include a line to mark "Unsatisfactory," and does not include separate line items for each of the two inspection ports into the interstice of the double walled hazardous waste tank.

**Corrective Action:** Permit Conditions II.C.8. and II.E.4.– The Permittee shall inspect the treatment tank system in accordance with the procedures stipulated in the permit application. Section 5.2 of the permit application indicates that the hazardous waste treatment tank is to be inspected daily.

40 CFR 264.195(c) – At least once each operating day, the owner or operator must inspect above ground portions of the tank system, if any, to detect corrosion or releases of waste, and the construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

Permit Condition II.A.14.c. – The Permittee must keep a written operating record at the facility that includes the results of inspections.

40 CFR 264.195(h) – The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) through (c) of this section.

EQ must immediately begin inspecting the hazardous waste treatment tank and all associated components daily as required by Rule and by its permit. Additionally, as indicated previously, the facility's inspection log needs to be revised to include separate line items for each component, including the interstitial ports, and the treatment building trench. The revised log will need to be submitted to the Department for approval and insertion into the permit.

**Type:** Violation

**Rule:** 403.727(1)(a)

**Explanation:** At the time of the inspection, nearly every "pop up" containment structure observed was damaged. Some appeared to have been repaired, but the repairs were inadequate (e.g., taped). There were numerous scrapes, gouges, and holes observed in "pop ups" throughout SWMU #11.

**Corrective Action:** Permit Condition II.B.14. - All service vehicle trucks, roll-offs and tractor trailers shall be situated over a manmade surface having emergency liquid containment or at one of the unloading areas when the vehicle contains hazardous waste.

Permit Application Section 8.2 / SWMU #11 (Transfer Facility) – Vehicles/trailers located in this area are parked on a man-made impervious surface. Secondary containment is provided if vehicles/trailers are going to be parked in this area for more than 24-hours.

Section 2.A.a. of the Department's May 29, 2015, letter to EQ – roll-offs containing treated (stabilized) waste may be staged anywhere within the currently permitted Transfer and Staging Area only if they are within secondary containment.

EQ needs to address the condition of all its "pop up" containment structures and discard the ones that are in poor condition and cannot be adequately repaired.

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Type: Violation

Rule: 403.727(1)(a)

Explanation: At the time of the inspection, nearly every "pop up" containment provided to satisfy secondary containment conditions was damaged, yet the inspection log for the day of the inspection indicated that the Transfer Facility Vehicle and Wastes were "satisfactory."

In accordance with the conditions set forth in the Department's letter of May 29, 2015, for storage of treated waste outside the treatment building, the contents of the roll-offs are regulated as hazardous waste until they meet universal treatment standards.

The Department has concerns that the roll-off containers being stored in SWMU #11 after treatment are not being inspected at least weekly as required by Rule 40 CFR 264.174, or daily as required by EQ's permit. Also, based on the records provided at the time of the inspection, it does not appear that all the locations and quantities of hazardous waste within the facility are being recorded, specifically with regard to treated hazardous waste stored in SWMU #11.

If the containers in SWMU #11 are being inspected as required, the person(s) responsible for conducting the inspections and filling out the log needs extensive retraining on what constitutes "satisfactory condition" for secondary containment. Moreover, if these containment structures were inspected, and their poor condition noted somewhere other than the daily inspection log required by permit, then EQ has failed to remedy the deficiencies, as required by Rule 40 CFR 264.15(c).

Corrective Action: Permit Condition II.B.5. – Inspections of containers shall be conducted in accordance with Section 10.4 of the application. Section 10.4 of the permit application states that container storage areas are inspected daily (each operating day) by EQ personnel. The inspector will check for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors as described in Section 5. Section 5.2 of the permit application states that the waste inventory for each hazard class and bay, to include transfer facility waste, is to be noted daily on the inspection log.

40 CFR 264.73(b)(2) - The location of each hazardous waste within the facility and the quantity at each location must be recorded, as it becomes available, and maintained in the operating record.

40 CFR 264.174 - At least weekly, the owner or operator must inspect areas where containers are stored. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

40 CFR 264.15(c) –The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

In accordance with the conditions set forth in the Department's letter of May 29, 2015, for storage of treated waste outside the treatment building, the contents of the roll-offs are regulated as hazardous waste until it is documented that they meet universal treatment standards. EQ must immediately begin

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inspecting these containers, recording accurate observations, and correcting all deficiencies noted. Additionally, the locations and quantities of waste in SWMU #11 must be recorded as part of the written operating record.

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Type: Violation  
Rule: 403.727(1)(a)  
Explanation: At the time of the inspection, the facility was using an inspection log dated 12-3-12.  
Corrective Action: Permit Condition II.B.5. – Inspections will be conducted as described in Section 5 of the permit application. Section 5.4 states that inspections will be recorded on the included log, which is on page 42 of the permit application. The included form is dated November 2013 / revision 01. Correspondence from EQ dated August 4, 2014, indicates the log was to be revised again to reflect modifications to the design of the treatment tank and building.

At a minimum, EQ needs to start using the inspection log approved in the permit, and must submit a revised log to the Department for approval and insertion into the permit.

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Type: Violation  
Rule: 403.727(1)(a)  
Explanation: At the time of the inspection, the Department requested paperwork associated with just 8 batch treatments. The records provided by EQ for these eight batches indicate that EQ improperly treated thirteen unpermitted waste codes on at least three separate occasions.

Specifically, hazardous waste that was batch treated on June 11, 2015, (Box 72) included waste with the codes D016, U279, D001 and D003, as well as a drum of fire extinguishers with no associated waste code. Hazardous waste that was originally batch treated on or around July 8, 2015, (Box 81) included wastes with the codes F005, F003, D001 and D035. Finally, hazardous waste that was batch treated on or around August 11, 2015, (Box 93) included waste with the codes U002, U154, U159, D001, D018 and D035.

It is unclear if the records provided by EQ constitutes the written operating record with respect to batch treatments. If not, then EQ must provide those relevant portions of the written operating record related to the treatment activities noted above.

Corrective Action: Permit Conditions II.C.2. and II.E.1 – The Permittee is only allowed to treat those hazardous wastes specified in the permit application, specifically, D002 and D004 through D011.

40 CFR 264.73(b)(1) – The owner or operator must keep a written operating record at his facility, that includes a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility.

EQ either needs to provide the Department with the written operating record or needs to provide the Department with an explanation of why it treated unpermitted hazardous waste.

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Type: Violation

Rule: 403.727(1)(a)

Explanation: As indicated previously, the records provided by EQ indicate that hazardous waste that was both reactive and ignitable was treated in the hazardous waste tank on June 11, 2015, and that ignitable waste was placed in the treatment tank on or around July 8, 2015 and again on August 11, 2015.

Corrective Action: Permit Condition II.C.5. – The Permittee shall ensure that ignitable or reactive waste is not placed into the treatment tank.

40 CFR 264.73(b)(1) – The owner or operator must keep a written operating record at his facility, that includes a description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility.

It is unclear if the records provided by EQ constitutes the written operating record with respect to batch treatments. If not, then EQ must either provide those relevant portions of the written operating record related to the treatment activities noted above or provide the Department with an explanation of why it treated unpermitted waste.

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Type: Violation

Rule: 403.727(1)(a)

Explanation: At the time of the inspection, there were fourteen roll-offs of treated hazardous waste in SWMU #11, and all of them were labeled "nonhazardous waste." Additionally, the Operations Manager did not appear to be aware of the conditions set forth in the Department's letter to EQ dated May 29, 2015.

Corrective Action: Section 2.A.c. and f. of the Department's May 29, 2015, letter to EQ – roll-offs containing treated (stabilized) waste staged anywhere within the currently permitted Transfer and Staging Area will remain classified as hazardous waste until laboratory analytical confirmation proves otherwise. In addition, all containers shall be clearly labeled and dated with respect to the material that is being treated so that inspectors can clearly determine the status of each container (e.g., treated material pending analysis, etc.).

Since EQ is not in compliance with either its permit or the conditions set forth in the Department's May 29, 2015, letter regarding the treatment of hazardous waste and its subsequent storage on site until it is confirmed to meet treatment standards, it must request a formal permit modification in order to memorialize and establish operating conditions for this agreement within 90 days, or the Department intends to withdraw its conditional approval for staging/storing this material outside the treatment building.

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Type: Violation

Rule: 403.727(1)(a)

Explanation: At the time of the inspection there were at least fourteen 20-cubic yard roll-off containers in the Transfer and Staging Area that is identified in Attachment D and identified as SWMU #11 in the permit. The language in the above

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Authorization, as well as the list of SWMUs in Appendix A of the permit specifies that EQ is only permitted to have 100-cubic yards of waste in the area designated as SWMU #11. Review of paperwork provided by EQ indicates that the roll-off containers they have been shipping contain approx. 18-cubic yards, which equates to approximately five full roll-offs, plus one half-full roll-off, in SWMU #11 at any given time. The amount of hazardous waste in SWMU #11 at the time of the inspection is estimated to be approximately 252-cubic yards, more than double the permitted quantity.

Corrective Action: Authorization of Specifically Described RCRA-regulated Permitted Unit #4: To operate a Hazardous Waste Transfer Facility:

The Permittee shall be authorized to operate a transfer facility on site in accordance with Rule 62-730.171, F.A.C., and shall be authorized to store manifested hazardous waste on site not to exceed ten (10) days as allowed for transfer facilities. EQ shall not utilize the transfer facility for any waste where EQ is the designated facility on the manifest or originated at the facility with EQ listed as the generator. The storage of transfer facility waste must be located on the paved lot within the 8th Ave. property as identified on Attachment D. Vehicles and trailers parked in this area must be marked as a 10-day vehicle or trailer. The maximum storage shall not exceed 20,000 gallons or 100 cubic yards.

Appendix A of the permit provides a list of all identified Solid Waste Management Units (SWMUs), and identifies the entire paved parking lot on the South Property as SWMU #11 – Hazardous Waste Transfer Facility. Additionally, the Closure Plan in the associated permit application states that the maximum storage inventory in the 10-Day Transfer Facility (SWMU #11) is 20,000-gallons or 100-cubic yards.

The Department's May 29, 2015, letter summarizing the teleconference between the Department and EQ, states that "the Department agrees that temporary staging of post-treatment roll-offs is allowed within the Hazardous Waste Treatment and Staging Area defined by the referenced permit" (SWMU #11), even though the waste is not in transport, and EQ is the Designated Facility on the associated hazardous waste manifests. The letter sets forth conditional approval requirements that must be met in order for the facility to store treated hazardous waste anywhere within SWMU #11.

Since EQ is not in compliance with either its permit or the conditions set forth in the May 29, 2015, letter from the Department, regarding the treatment of hazardous waste and its subsequent storage on site until it is confirmed to meet treatment standards, it must request a formal permit modification in order to memorialize and establish operating conditions for this agreement within 90 days, or the Department intends to withdraw its conditional approval for staging/storing this material outside the treatment building.

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Type:	Violation
Rule:	403.727(1)(a)
Explanation:	Waste collected from the south sump in the Treatment Building is treated in the treatment tank, as required by permit, which also requires it to be characterized. The Department believes that generator knowledge is an acceptable method of characterization given the fact that the waste from the sump will likely be very similar to the waste normally treated in the tank.

Waste collected in the north sump, on the nonhazardous side, is also treated in



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the hazardous waste treatment tank. Based on discussions with the Operations Manager, this collected waste is declared hazardous, but is not analyzed. Due to the fact that the waste on this side of the building is not required to be initially characterized by the generators, especially regarding characterization of underlying hazardous constituents, and since it is located very near the used oil transfer area, which was full at the time of the inspection, this waste must be analyzed in order to be properly characterized.

In addition, based on review of the documentation submitted by EQ related to waste characterizations, waste profiles and land disposal restrictions, the Department has concerns that EQ does not always have all the information which must be known to treat, store, or dispose of the waste in accordance with 40 CFR, Parts 264 and 268.

Corrective Action: Permit Condition II.A.5. – Sampling and analysis of permitted and new hazardous wastes shall be conducted in accordance with the Waste Analysis Plan (WAP) of the permit application. Section 4.13 of the WAP states that the Site-generated wastes are characterized and managed according to all applicable requirements and regulations. The WAP also states, "At a minimum, the generator supplies all the information needed to treat, store, or dispose of the waste as required by 40 CFR Part 264.13(a)(1)."

40 CFR 264.13(a)(1) – Before an owner or operator treats, stores, or disposes of any hazardous wastes, a detailed chemical and physical analysis of a representative sample of the wastes must be obtained. At a minimum, the analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with this part and part 268 of this chapter.

EQ must begin collecting samples from each batch of wastewater from the nonhazardous (north) side of the Treatment Building. Analysis of the waste must meet the requirements for characterization in 40 265.13(a). Parameters for used oil constituents and likely associated contaminants (e.g. solvents) must be included. The WAP should also be revised to reflect this procedure. EQ will have to make other arrangements for disposal of the wastewater if the characterization indicates that the waste or its underlying hazardous constituents cannot be treated in the hazardous waste treatment tank.

Some of the waste profiles submitted were several years old, some appear to be for more than one wastestream, some appear to be unsigned, and it appears that in some cases, EQ must reconcile more than one document to properly characterize waste it receives. EPA considers disposal facilities to be liable for improper disposal of hazardous waste even if it does so in the good-faith belief that a treatment standard does not apply. (RCRA Online Document #13630)

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Type:	Violation
Rule:	403.727(1)(a)
Explanation:	Hazardous waste treated in the hazardous waste treatment tank is not being treated or subsequently managed in accordance with either the facility's permit or with the conditions for authorization to store treated waste in SWMU #11 as set forth in the Department's letter to EQ dated May 29, 2015. This is especially concerning since some of the records reviewed were for wastes that did not pass TCLP after treatment. Specifically, EQ is not relocating the treated waste back into the Treatment Building immediately upon notification of a "failed" analysis.

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On March 20, 2015, approximately 6,000-gallons of hazardous waste containing free liquid were received from Envirofocus in two gopher vac trucks. The material was destined for treatment in the hazardous waste treatment tank. Records show that the material was placed into the treatment tank as batch 43 on March 26, 2015, and placed into three roll-offs the same day at noon. The sample for confirmatory treatment was then obtained on March 27, 2015.

The initial results indicating the waste was still characteristically hazardous were received by EQ on March 31, 2015. The waste was then returned to the treatment tank on April 1, 2015. Records originally provided by EQ indicated that the only waste placed into the treatment tank was from Envirofocus, however, the batch process sheet subsequently provided by EQ indicate that on April 1, 2015, liquid waste from Keymark was also added to the tank. The waste was treated and placed again into roll-offs on April 2, 2015.

According to the batch records, it was retreated again on April 6 and 7, 2015. Half the batch was then retreated again on April 18, 2015, with the second half being retreated on April 20, 2105. A sample was collected on April 21, 2105, and confirmation that it finally met all treatment requirements was received on April 22, 2015.

Records for batch 25, which also initially failed TCLP, indicate that the analytical report was received on February 6, 2015, but the waste was not retreated until February 10, 2015.

The Department also requested records from EQ for any waste treated after the inspection that failed TCLP. Batch 101, which appeared to be primarily containerized waste, was treated on August 27, 2015, and the initial results received on September 1. The batch was retreated on September 2, again on September 5, and again on September 14. It was removed from the tank at 2:00pm. The final, passing sample was collected on September 15 at noon.

**Corrective Action:** Permit Condition II.A.5. - Sampling and analysis of permitted and new hazardous wastes shall be conducted in accordance with the Waste Analysis Plan (WAP) of the permit application. Section 4.8 of the WAP indicates that treated waste will not be loaded into roll-offs until treated materials pass TCLP, meet LDRs and contain no free liquids.

Permit Condition II.B.15. - Vehicles with incoming shipments of hazardous waste shall be unloaded into the appropriate storage area within five (5) calendar days of the vehicle's arrival at the facility.

Section 2.A.e. of the Department's May 29, 2015, letter to EQ – roll-offs containing treated (stabilized) waste may be staged anywhere within the currently permitted Transfer and Staging Area provided any treated waste yielding confirmatory results which 'failed' will, upon notification of this result, be immediately transferred back to the treatment area for re-processing.

It took six days for EQ to unload the two vac trucks into the treatment tank. Additionally, although EQ has 5 days to unload waste, it didn't start unloading the first truck until the 26th, and the total amount of time it took for both trucks to unload into the tank was approx. 5.5-hours. The condition for unloading is meant to allow EQ time to gradually remove waste from vehicles, and the intent is that waste is generally unloaded over the five days, not after five days, over a few hours. Additionally, the Department would like EQ to provide information on the location of these two vac trucks from the 20th, when they arrived, to the 26th, when they were finally unloaded.

The Department believes that EQ should be collecting the sample from treated

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batches immediately. It is unclear why the first sample for batch 43 was collected the following day, considering the batch was removed from the tank at noon. This is especially concerning since the waste was still hazardous at this time.

There were no records to indicate why batch 43 was retreated three times. Additionally, there were no records provided to the Department that hazardous waste from Keymark was also included (eventually) in the batch. According to the documents provided by EQ, there were only two samples collected: the initial one showing the batch failed, and the final one showing it passed.

The Department would like EQ to explain why the provided records of waste treated in batch 43 do not include any manifests from Keymark. The Department would also like an explanation of why this waste was retreated three times. Specifically, were any other samples collected, and if so when. If there were other analyses of this batch performed between March 31 and April 22, 2015, EQ must provide copies. If the decision to retreat this waste on April 6-7 and April 18/20 was made based another reason, EQ needs to provide an explanation. Finally, the Department would like to know why the second half of the batch was treated on April 20, 2015, and not on the 19th.

It is also worth noting that this batch of waste began as three roll-offs and ended up as six roll-offs. The treated waste from this batch alone exceeded the maximum allowable storage capacity of SWMU #11.

Batch 25 was not immediately returned to the Treatment Building after the initial sampling results showed it failed TCLP.

Regarding batch 101, refer to the comments above for batch 43. The Department has the same concerns for this waste, including why the sample was not collected the day the batch was removed, why it had to be retreated so many times, and why the decisions were made to retreat it.

The issues outlined are specifically about batches that failed TCLP. During the inspection, EQ indicated that waste fails for UTS approximately 20% of the time. Considering that each batch generally consists of at least two roll-offs, there is a high probability that a significant amount of waste in SWMU #11 at any given moment has not been adequately treated.

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Type:	Violation
Rule:	264.71
Explanation:	The Department reviewed manifests associated with eight batches of hazardous waste treated on site. Numerous errors associated with the assigned management method codes (manifest line items 19 and 36) were identified.

There were forty-four manifests for batch 72; thirty-seven were incorrect. Another three had treatment codes assigned to waste that was not included in batch 72, but it is possible that these wastes were treated in another batch. Of the nine manifests for batch 81, only one was correct. Batch 93 had thirty-six manifests, and twenty-six of those were clearly incorrect. Another five had treatment codes assigned to waste that was not included in batch 93, but it is possible that these wastes were also treated in another batch. Batch 94 had eight manifests, five of which were incorrectly completed, and one of which may or may not have been correct depending on whether the identified waste was treated in another batch.

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It should be noted that while the majority manifests had incorrect codes assigned to the waste, some manifests had no management codes at all, and others had codes assigned to blank lines.

Corrective Action: 40 CFR 264.71 - Use of Manifest System / Appendix to Part 262 - Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)

Owners and operators of TSD facilities are required to complete hazardous waste manifests in accordance with Section IV of the Appendix to Part 262. Specifically, the first TSD facility that receives manifested hazardous waste is required to fill in Items 19 and 36 with the most appropriate Hazardous Waste Report Management Method code for each waste listed.

EQ needs to review the manifests associated with all its batch treatments of hazardous waste and assign the correct management method codes as required. Copies of the corrected manifests should be provided to all associated generators, especially those who need this information to accurately complete their Biennial Reports.

Additionally EQ needs to retrain all employees responsible for receiving hazardous waste to ensure that the manifests are accurate.

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### Conclusion:

Based on the observations made during this inspection, EQ was not operating in compliance with rules applicable to generators or TSD facilities, it was not in compliance with its permit, nor was it in compliance with the Department's letter of May 29, 2015, setting forth conditional approval requirements that must be met in order for the facility to store treated hazardous waste anywhere within SWMU #11.

Inspection Date: 08/14/2015

**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.

Kelly M. Honey

**PRINCIPAL INSPECTOR NAME**

Environmental Specialist III

**PRINCIPAL INSPECTOR TITLE**

**PRINCIPAL INSPECTOR SIGNATURE**

FDEP / SWD / HW CAP

**ORGANIZATION**

9/30/2015

**DATE**Supervisor: Richard VaughnInspection Approval Date: 09/30/2015

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.

## REVISED PENALTY COMPUTATION WORKSHEET

Violator's Name: EQ Florida, Inc.

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

Name of Department Staff Responsible for the Penalty Computations: Kelly Honey

Warning Letter #: WL15-024HW29SWD

Date: May 13, 2016

	Violation Type	Report Page #	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Total
1.	Failure to keep HW container closed unless adding/removing waste 265.173(a)	3	HW-010	Minor	Moderate	\$2,130 to \$710	\$2,130
2.	Failure to label and date HW container 262.34(a)(2) and (3)	3	HW-005	Minor	Moderate	\$2,130 to \$710	<b>Combined with Item #1</b>
3.	Failure to provide sufficient training to personnel 264.16(a)(1)	4	HW-208	Moderate	Moderate	\$11,330 to \$7,090	\$11,330
4.	Failure to provide adequate containment for outbound containers 264.175(b)(3)	5	HW-176	Moderate	Moderate	\$11,330 to \$7,090	\$11,330
5.	Failure to note one discrepancy on a HW manifest 264.71(a)(2)	5	HW-123	Minor	Minor	\$710 to \$150	<b>Combined with Item #15</b>
6.	Failure to inspect HW tank system daily and/or document inspections 264.195 / PCs II.C.8 and II.E.4.	5-6	N/A	<b>Documents provided showing violations did not exist during insp</b>		\$15,580 to \$11,330	<b>Citation marked as "deleted"</b>
7.	Failure to provide adequate containment for roll-offs in SWMU #11 PC II.B.14, App 8.2	6	HW-096	Moderate	Moderate	\$11,330 to \$7,090	<b>Combined with Item #4</b>
8.	Failure to inspect roll offs and/or correct problems; EQ: logs were incorrectly completed 264.174 / 264.15(c)	7	HW-136	Minor	Moderate	\$2,130 to \$710	<b>Combined with Item #3</b>
9.	Failure to use the form required by permit when documenting inspections PC II.B.5	8	HW-096	Moderate	Minor	\$7,090 to \$4,250	\$7,090
10.	Failure to treat only permitted waste in the HW treatment tank PCs II.C.2. and 5. / II.E.1	8-9	N/A	<b>Documents provided showing violations did not exist during insp</b>		N/A	<b>Citations marked as "deleted"</b>
11.	Failure to label treated waste / failure to ensure waste was fully treated as per WAP / storing HW in unauthorized areas (i.e., transfer facility)	9	N/A	<b>Determined to be permit violations already included elsewhere in calculation</b>		N/A	<b>N/A</b>
12.	Failure to comply with the maximum allowable volume in SWMU #11 Permit Authorization, and Appendix A	9-10	HW-096	Moderate	Major	\$15,580 To \$11,330	\$15,580
13.	Failure to characterize waste from N sump prior to treatment on site PC II.A.5 / 264.13(a)(1)	10-11	HW-149	Moderate	Major	\$15,580 To \$11,330	\$15,580
14.	Failure to meet time limits for unloading & to sample treated haz waste as per WAP PCs II.A.5 & II.B.15	11-13	HW-096	Moderate	Moderate	\$11,330 to \$7,090	\$11,330
15.	Failure to record the correct Method Management Codes on HW manifests 264.71	13-14	HW-123	Minor	Moderate	\$2,130 to \$710	\$2,130
16.	Failure to store SW only in permitted areas at the facility. PC V.B.10.a.(2)	5	For waste processors	Minor	Major	\$500 – \$1,199	\$1,199
17.	Failure to utilize 2 mixers as reqd by the permit; EQ states decon does occur; PC V.B.10.b.(1)	6	For waste processors	Minor	Major	\$500 – \$1,199	<b>No Penalty</b>
SUB-TOTAL:							\$77,699
Economic Benefit of Noncompliance							\$1,000
DEPARTMENT COSTS:							\$1,000

**Total Penalties Including Department Costs:**

**\$79,699.00**

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

**5/18/2016**  
 Date



PENALTY JUSTIFICATION / DEVIATION WORKSHEET

FACILITY NAME: \_\_\_\_\_ Date: \_\_\_\_\_

EPA ID No.: \_\_\_\_\_ Case #: \_\_\_\_\_

*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.*

Example:

1. 40 CFR 265.177(c)

Storage of incompatible wastes adjacent to one another, without separation by distance or containment

Potential for Harm - Minor -

Based upon the RCRA Program guidelines for calculating potential harm for violations where the potential harm depends on the nature and amount of waste.

Deviation from the Rule - Major -

Based upon Guide 10.5 for a similar violation, 40 CFR 265.31 - failure to manage the facility so as to prevent spills, leaks, fires or other conditions that could cause a release of hazardous waste constituents

MULTIDAY PENALTY CALCULATION WORKSHEET

Violation \_\_\_\_\_

Number of Days of Violation \_\_\_\_\_

Refer to EPA penalty policy for gravity and multiday matrix cell ranges

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



ECONOMIC BENEFIT WORKSHEET

FACILITY NAME: EQ Florida, Inc. Date: December 11, 2015

EPA ID No.: FLD981932494 Case #: WL15-024HW29SWD

Violation: 403.727(1)(a), F.S. – Failure to comply with Permit

cost of application for permit modification = \$10,000

EB = Avoided Costs (1-C) + Delayed Costs (T)

C = Current Corporate Tax Rate = .38

T = IRS Interest Rate = 10% per year

Avoided Costs = \$0

Delayed Costs = \$10,000

EB =  $\$0(1 - 0.38) + \$10,000(0.10) = \$1,000$