

## Honey, Kelly

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**From:** Honey, Kelly  
**Sent:** Friday, February 12, 2016 4:58 PM  
**To:** Vaughn, Richard  
**Cc:** Knauss, Elizabeth  
**Subject:** for review and signature - EQ Florida, Inc. (FLD981932494); peer review request, etc

Hi Rick,

The draft penalty calculation, the peer review document and the revised case review form are all here for your review. I added Kelley's name to the memo. Let me know if I shouldn't have. All the previous versions are in the Supporting Docs file, and the warning letter, etc., are in the previously mailed docs folder. Let me know if you'd like any changes.

[EQ](#)

*Kelly Honey  
FL Department of Environmental Protection  
Compliance Assurance Program  
T: 813/470-5786  
F: 813/470-5995*

Please Note: Florida has a very broad public records law. Most written communications to or from state officials regarding state business are public records available to the public and media upon request. Your e-mail communications may therefore be subject to public disclosure.

# Hazardous Waste Program

## REVISED CASE REVIEW FORM

Check Case Review Type: <input type="checkbox"/> Case Specific Classification Review  <input type="checkbox"/> Enforcement Case Review					
Current Date:		Inspection Date:		Inspector:	
EPA ID: _____  Facility Name: _____  Facility Address: _____  Reference Links:					
Alleged Violation Citation/Regulator Reference	Manual Guide	Potential for Harm	Extent of Deviation	Check All That Apply	
1.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					
2.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					
3.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					
4.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					
5.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					
6.					Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)					

# Hazardous Waste Program CASE REVIEW FORM

7.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
8.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
9.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
10.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
11.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
12.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
13.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
14.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						
15.						Repeat Violations Actual or substantial exposure to HW constituents
Comments: (Optional)						

**DWM Notes:**

Note: This staff assessment is preliminary and is designed to assist in the compliance review process, prior to final agency direction. Comments provided herein are not the final position of the Department and may be subject to revision, pursuant to additional information and/or further review.

## DRAFT 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: February 12, 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 262.34(a)(2) / 265.173(a)	3	HW-010	Minor	Major	\$4,250 to \$2,130	\$4,250
2.	Failure to label and date HW container 262.34(a)(2) and (3)	3	HW-005	Minor	Major	\$4,250 to \$2,130	<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	\$11,300
4.	Failure to provide adequate containment for outbound containers 264.175(b)(3)	5	HW-176	Moderate	Major	\$15,580 to \$11,330	\$15,580
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, 05/2015 Ltr 2.A.a	6	HW-096	Moderate	Major	\$15,580 to \$11,330	<b>Combined with Item #4</b>
8.	Failure to inspect rollofts and/or correct problems; <b>EQ: logs were incorrectly completed</b> 264.174 / 264.15(c)	7	HW-136	Minor	Major	\$4,250 to \$2,130	<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 in accordance with conditional approval Sections 2.A.c. and f. of Approval Ltr	9	HW-096	Moderate	Major	\$15,580 To \$11,330	\$15,580
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 & return failed waste immed to Trmt Bldg PCs II.A.5 & II.B.15 / Sec 2.A.e of Ltr	11-13	HW-096	Moderate	Major	\$15,580 To \$11,330	\$15,580
15.	Failure to record the correct Method Management Codes on HW manifests 264.71	13-14	HW-123	Minor	Major	\$4,250 to \$2,130	\$4,250
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; <b>EQ states decon does occur</b> ; PC V.B.10.b.(1)	6	For waste processors	Minor	Major	\$500 – \$1,199	<b>No Penalty</b>
SUB-TOTAL:							\$105,989
Economic Benefit of Noncompliance							\$1,000
DEPARTMENT COSTS:							\$1,000

**Total Penalties Including Department Costs:**

**\$107,989.00**

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

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

# Florida Department of Memorandum

# Environmental Protection

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**TO:** Tim J. Bahr, P.G., Program Administrator  
Permitting and Compliance Assistance Program

**THROUGH:** Mary E. Yeargan, P.G., Director  
Southwest District  
Kelley Boatwright, Assistant Director  
Southwest District  
Richard Vaughn, Environmental Manager  
Southwest District Compliance Assurance Program

**FROM:** Kelly Honey, Environmental Specialist III  
Southwest District Compliance Assurance Program

**DATE:** February 12, 2016

**SUBJECT:** Peer review request – EQ Florida, Inc.

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We are requesting a peer review for the following case:

**Alleged Violator:** EQ Florida, Inc.

**Location of facility:** 2002 N. Orient Rd.  
Tampa, FL 33619  
Hillsborough County

**Facility ID:** FLD981932494

**Facts necessary to conclude a violation has occurred:**

A routine Compliance Evaluation Inspection (CEI) was performed at this facility on August 14, 2015. EQ Florida, Inc. (EQ), is a permitted hazardous waste treatment, storage and disposal facility (TSDF), as well as a solid waste materials processing facility. There are two associated permit numbers issued under a single permit which 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 last issued on 04-01-14, 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. Since the inspection, the facility has submitted a draft application to modify its permit.

The facility has been inspected numerous times by the Department's Solid and Hazardous Waste Sections, most recently on May 22, 2013. In addition, 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.

During the CEI, numerous violations of hazardous waste rules were observed. An inspection report was drafted and provided to the facility on October 22, 2015, under a Warning Letter since the number and the nature of the violations noted meet the USEPA Significant Non Complier (SNC) criteria. A Case Review Form was prepared and submitted to Division in Tallahassee on October 2, 2015. On October 6, 2015, Division concurred with the SNC determination. On October 29, 2015, they provided documentation that two cited violations did not exist at the time of the inspection (see Item 10), and these were subsequently "marked as deleted" in SWIFT.

A meeting at which EQ presented its initial written response was held at the Southwest District November 20, 2015, at the Southwest District (SWD) offices. On December 7, 2015, EQ submitted a revised response to the inspection report, based on discussions during the November meeting. Copies of both responses are attached to this peer review request, as is a copy of the original inspection report.

**Specific regulations allegedly violated:**

1. Storing hazardous waste in an open container: 40 CFR 262.34(a)(1)(i)

A hazardous waste generator is responsible for ensuring that all containers of hazardous waste are kept closed unless waste is being added or removed from the container. EQ generates hazardous waste liquid on the north side of the Treatment Building, and at the time of the inspection, the container was open.

2. Storing hazardous waste in an unlabeled and undated container: 40 CFR 262.34(a)(2) and (3)

All hazardous waste storage containers must be clearly labeled with the words "hazardous waste" and marked with the date upon which the waste was first placed into storage. The 275-gallon container in the north side of the Treatment Building was not labeled or marked with a start date. Since this citation is very similar in nature to Item 1, (i.e., generator unit management violations), they have been combined into a single penalty.

EQ's response to the two alleged violations above (#1 & #2) are basically that they believe they meant the "intent" of the Rules since there were employees actively working in the area.

They further stated that the Department was too narrow in its interpretation that containers be immediately closed when an employee is finished placing hazardous waste within. The revised written response submitted in December 2015 further states that the activities generating the hazardous wastewater took less than 30 minutes, the containers were not unattended and the waste was not in storage.

The District's response is that the rules are very clear and as such, are not really open to interpretation: "A container holding hazardous waste must always be closed during storage, except when it is necessary to add or remove waste." At the time of the inspection, waste being neither removed nor added. In addition, use of containers is allowed provided that "the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container...and each container and tank is labeled or marked clearly with the words, "Hazardous Waste." The container was not marked with either a date or the words "hazardous waste."

In addition, as was pointed out during the meeting, the container is not hard piped to either the collection sump or the treatment tank, and it is too large to be a satellite container. Therefore, the hazardous wastewater was being accumulated within the container until it could be emptied into the treatment tank, and must be managed in accordance with the unit management rules.

3. Adequate training was not provided to employees regarding hazardous waste management: 40 CFR 264.16(a)(1)

Owners and operators of hazardous waste TSDFs are required to ensure that facility personnel 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. Based on the observations made and discussions during this inspection, personnel did not have sufficient training. For example, a very high number of manifests reviewed were not completed correctly, basic generator requirements regarding waste determinations had to be explained, there were misunderstandings about the permit requirements, and staff seemed unaware of the conditional approval criteria for the alternate operating procedures set forth in the Department's letter of May 29, 2015. The training issues are clearly highlighted in the attached inspection report, which details the alleged violations listed herein.

EQ's response on this item was basically that their staff are well trained, but they are human and therefore make mistakes. There was concern expressed about the Department's apparent zero tolerance for mistakes since nothing and no one can ever be perfect.

The Department's response is that there is no zero tolerance policy: If there had been one or two incorrect manifests, or one or two containments in poor condition marked as "satisfactory," etc., this violation would not have been cited. The rule requires that employees be able "to perform their duties in a way that ensures the facility's compliance." The facility Operations Manager was not familiar with the conditions attaching to the

Department's approval for managing treated hazardous waste pending receipt of analytical results. As a consequence, excessive amounts of waste were being held in trailers stored within pop up containment pads that were in poor condition. In addition, treated waste was not immediately returned to the treatment tank upon receipt of analytical results that demonstrated the waste failed treatment standards. For these reasons, the department believes that that EQ employees were not adequately trained at the time of the inspection.

Despite its response to this citation, it must be noted that in response to Item 8 (i.e., failure to inspect containers), EQ acknowledges that lack of training was the issue, and not a failure to inspect containers or make repairs of noted deficiencies. EQ states that "all affected employees will receive in-depth and detailed refresher training with special emphasis on containment integrity requirements."

4. Secondary containment requirements for containers are not always being met: 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. 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. It is unknown what the average time is to complete transportation paperwork. EQ uses temporary "pop up" containment pads, and many of these were in poor condition, with holes, tape repairs and side wall supports that were not deployed correctly. In addition, the containment capacity did not appear to be adequate for vacuum trucks sometimes used to transport hazardous waste.

EQ's response indicates that the containments they use do have sufficient volume. They have provided manufactures' specifications on the structures and the tape they use to make repairs. There is still a concern about the hydrostatic integrity of the containments and whether it could withstand a sudden influx of liquid from a disconnected hose, for example. The Department will be reviewing the information from the specifications from the manufacturer, but may need to ask for a hydrostatic test.

Based on the condition of the containments in use at the time of the inspection, this citation cannot be dropped, however. EQ acknowledges the poor condition of the containments in its response to Item 7 (i.e., inadequate secondary containment for roll-off containers), and indicates that in future, all containments lacking integrity will be taken out of service until repair or replacement.

5. Significant discrepancies are not always recorded as required: 40 CFR 264.71(a)(2)(ii)

If a TSDf 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 failed to note a discrepancy on at least one manifest, specifically manifest #004159594JJK for waste picked up at a CSX facility. Since this citation is very similar in nature to Item **15**, (i.e., manifest violations), they have been combined into a single penalty.

6. The hazardous waste treatment tank and associated components were not being inspected daily: 40 CFR 264.195(c); Permit Conditions II.C.8 and II.E.4 (403.727(1)(a), Florida Statutes (F.S.))

At least once each operating day, the owner or operator must inspect aboveground portions of the tank system. Section 5.2 of the permit application also requires the hazardous waste treatment tank to be inspected daily. There is no indication on the records provided that the treatment tank system is included in the daily inspections, and the inspection log in use at the time of the inspection doesn't have a space to record this information, although the one required by permit does. Based on EQ's response described below, this citation has been marked for deletion.

After discussions during the meeting, the Department determined that EQ did provide logs of inspections of the hazardous waste treatment tank, however, they were not documented on the Facility Inspection Log required by permit, nor were they provided to the Hazardous Waste inspector. The inspections were recorded instead on the *Daily Solid Waste Building Inspection Log* documentation that was provided to the Solid Waste inspector. The form includes a line item for "Haz Stabilization Unit" and the sumps on both the north and south sides of the building. The form does not include a notation of all required components (e.g., interstice), but as indicated above, the Department is marking this citation for deletion.

7. Inadequate secondary containment for roll-off containers: Permit Condition II.B.14; Permit Application, Section 8.2; Section 2.A.a of conditional approval letter (403.727(1)(a), F.S.)

EQ's operating permit requires all service vehicle trucks, roll-offs and tractor trailers to be situated over a manmade surface having emergency liquid containment or at one of the unloading areas when the vehicle contains hazardous waste. Additionally, the Application indicates that vehicles/trailers located in SWMU #11 will be parked on a man-made impervious surface, and that secondary containment is provided if vehicles/trailers are going to be parked in this area for more than 24-hours. Finally, the Department's May 29, 2015, letter to EQ allows roll-offs containing treated (stabilized) waste to be staged anywhere within the currently permitted Transfer and Staging Area only if they are within secondary containment.

EQ utilizes temporary "pop-up" containment pans constructed from high density polyethylene (HDPE) to meet these requirements. At the time of the inspection, almost all of the "pop-ups" observed in use were damaged. Since this citation is similar in

nature to Item 4, (i.e., inadequate secondary containment), they have been combined into a single penalty.

In its response, EQ states that all secondary containment lacking structural integrity has been replaced, and are not disputing that the alleged violation occurred.

8. The roll-off containers and SWMU #11 are not being inspected daily: 40 CFR 264.174; Permit Condition II.B.5 (403.727(1)(a), FS.)

The rule requires that 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. EQ's permit has a daily inspection requirement. Furthermore, Rule 40 CFR 264.15(c) requires the owner or operator to 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.

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." Based on these records, it appears that the roll-off containers being stored in SWMU #11 after treatment are not being inspected at least weekly as required by the rule, or daily as required by EQ's permit.

If the containers in SWMU #11 were 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. 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. It seems likely, however, that the daily inspections that were being logged were of the former location of the transfer facility, which was on the north property at the containment building.

EQ acknowledges in its response that the containment structures were damaged and states that all containments lacking structural integrity have been replaced. Based on the rest of the response, it is apparent that EQ is asserting that the inspections were conducted, as required by permit, but the conditions observed were incorrectly documented by the inspector (i.e., there was no failure to inspect, nor was there a failure to correct noted deficiencies). EQ goes on to say that affected employees will receive in-depth and detailed refresher inspector training with emphasis on containment integrity requirements.

The Southwest District believes the inspections documented were of the former location of the transfer facility, and that the current location was not being inspected. However, since EQ is saying the problem in this case was a lack of training rather than a lack of inspections,

and because there is no other evidence, the Department will not seek a separate penalty for this citation. Instead it will be combined with Item 3 for inadequate training.

9. EQ was not using the inspection form submitted as part of its permit application and approved by the Department: Permit Condition II.B.5.; Permit Application, Section 5.4 (403.727(1)(a), F.S.)

Inspections are to be conducted as described in Section 5.4 of the permit application, which states that inspections will be recorded on the log included as 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 to reflect modifications to the design of the treatment tank and building. At the time of the inspection, the facility was using neither the permit form nor a revised version of it. The form in use is dated December 3, 2012, and has no space to record information about the treatment tank.

EQ is not disputing this citation and submitted a revised draft form to the Department on November 5, 2015.

10. The records submitted indicated EQ may have been treating unpermitted waste in its hazardous waste treatment tank: Permit Conditions II.C.2 and 5, and II.E.1 (403.727(1)(a), F.S.)

During the inspection, the Department requested copies of all manifests associated with various hazardous waste batch treatments, and the records originally submitted indicated unpermitted waste had been treated. On October 29, 2015, EQ and the Department met regarding this issue, and EQ was able to satisfactorily demonstrate that the records they submitted were incorrect, and that no unpermitted waste was treated in the relevant batches. The Department subsequently marked these two citations for deletion. No penalty was assessed as the violations did not exist at the time of the inspection.

11. Roll-off containers of treated hazardous waste were not labeled in accordance with the Department's conditional approval of alternate operating procedures: Section 2.A.c and f, of conditional approval letter (403.727(1)(a), F.S.)

The Department's conditional approval states that all 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.). At the time of the inspection, all the roll-off containers were labeled "nonhazardous waste." It was determined after the inspection, that at least one batch identified as nonhazardous had failed treatment standards.

In its response, EQ states that all roll-offs of treated waste are classified as hazardous waste until analyticals indicate otherwise and that all roll-offs are tagged with the contents clearly identified. Presumably they mean going forward, since at the time of the inspection, the roll-offs were all identified as nonhazardous waste. EQ will also be applying for a permit modification to address the storage and capacity issues.

12. More waste was being stored in SWMU #11 than is allowed by permit: Permit #34875-HO-11; Permit, Appendix A; Permit Application, Closure Plan (403.727(1)(a), F.S.)

EQ's permit states that the Permittee is authorized to operate a transfer facility on site anywhere on the paved lot of the south property identified on Attachment D of the permit. It also states that 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 SWMU #11 as the 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.

At the time of the inspection, there were at least fourteen 20-cubic yard roll-offs in SWMU #11, or approximately 252 cubic yards.

EQ's written response states that the roll-off boxes are not in the 10-day transfer facility and the Department's letter allows them to stage the treated material in the same location as SWMU #11. They contend that the storage limits apply only to waste destined for another facility (i.e., transfer waste) but not to waste staged waste within it.

This was discussed during the meeting on November 20, 2015. EQ agreed that the transfer facility, as described in the Authorization and laid out in the associated plans, does include the entire paved lot of the south property. Initially, they were simultaneously contending that only the small spot marked with "11" constituted the transfer facility, and the treated waste was not at the location marked "11" but was in another area of the paved lot ("the staging area"). It was pointed out that the small area marked "11" they were referencing was actually identified as the "transfer facility/staging area," and historically, EQ has stored 10-day transfer waste and other, staged wastes throughout the entire paved lot, as needed. They agreed that this was so.

The Southwest District does not agree with EQ's interpretation of the permit, the rules, and the concept of what constitutes a SWMU with regards to the transfer facility. The Department also noted that the conditional approval for alternate operations did not include any increase of the capacity of the facility in any way, and therefore they were subject to the limits in the permit. The new hazardous waste treatment tank has an estimated capacity of 54-cubic yards (11,000-gallons), more than half the allowable capacity of the transfer facility on the south property, which is basically the entire paved lot, and nearly a quarter of the allowable capacity of the north property.

Capacity limits typically include both hazardous and nonhazardous wastes, and part of their purpose is so the potential cost of closing the facility can be quantified to ensure compliance with Subpart H of 40 CFR 264. The Southwest District has serious concerns about the amount of waste on site and whether the closure costs and financial assurance requirements are being met. The amount of waste observed on the south property alone was more than 50,000-gallons, and this does not include wastes "awaiting transportation documents" from the north property. In addition, there was an estimated 20,000-gallons of waste in storage on the north property on the day of the inspection.

EQ is going to address this when submitting their permit modification request, but it should be noted that they received conditional approval to store treated material in the transfer facility in May 2015, but have been doing so since at least February 2015.

Section 403.7211, F.S., specifically prohibits hazardous waste storage facilities from making substantial modifications unless they meet certain siting criteria, including setbacks from residences, schools and prisons. EQ Florida does not meet siting criteria, and the amount of additional waste stored in parked trailers at the facility would require review under the criteria for a substantial modification, and could require additional controls to mitigate potential off site impacts of possible fires, explosions or releases.

After the meeting, EQ began including the treated waste in its capacity calculations and have already reported at least one facility capacity exceedance. It was discussed during the meeting that increasing the capacity of the facility and /or the types of waste to be treated will likely trigger evaluation under the Statutory Location Standards, and it is unclear if the changes that have been proposed can be permitted at this location.

13. Waste from the sump in the north side of the Treatment Building was not properly characterized before being treated in the hazardous waste treatment tank: 40 CFR 264.13(a)(1); Permit Condition II.A.5; Permit Application, Section 4 - Waste Analysis Plan (WAP) (403.727(1)(a), F.S.)

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 is permitted to treat characteristically hazardous metal bearing and corrosive wastes that do not contain organic underlying hazardous constituents (UHCs) listed in 40 CFR 268.48. Section 4.13 of the permit application states that the site generated wastes are characterized and managed according to all applicable requirements and regulations.

The waste from the north sump is declared hazardous, but no analyses are performed to determine whether there are any UHCs that would preclude its onsite treatment, or that would need to be included to ensure the universal treatment standards (UTS) are met



prior to land disposal. The sump is located next to the solid waste treatment tank and the used oil transfer facility area. There is also concern about characterization of wastes accepted from customers since some of the paperwork appeared to be old, there are forms currently being accepted that are outdated, and in some cases it seems as if EQ must reconcile several documents to show proper characterization. These issues were also discussed during the meeting on October 29, 2015.

In its written response, EQ does not dispute this citation, and indicates that in future, collected stormwater from north sump will be sampled and characterized prior to disposal.

14. Hazardous waste is not being treated, processed or stored in accordance with the permit, the permit application, and is not immediately returned to the Treatment Building upon notification that it is still hazardous and/ or does not meet treatment standards: Permit Conditions II.A.5 and II.B.15; Permit Application, Section 4 – WAP; Section 2.A.e of conditional approval letter (403.727(1)(a), F.S.)

Section 4.8 of the WAP indicates that treated waste will not be loaded into roll-offs until treated materials pass TCLP, meet LDRs (universal treatment standards) and contain no free liquids. The Department's conditional approval letter to EQ, however, allows roll-offs containing treated (stabilized) waste to 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.

At the time of the inspection, EQ was removing treated waste from the treatment tank and staging it pending the receipt of analytical results for universal treatment standards. Review of records indicates that EQ is not immediately returning every "failed" batch to the Treatment Building. Additionally, some batches removed from the tank were not even sampled immediately after treatment. Several of the batches reviewed had to be retreated multiple times before finally passing, during which time, the wastes spent a considerable amount of time outside the Treatment Building. A couple of examples are provided below.

Batch 25 was removed from the treatment tank prior to the receipt of passing analyticals, and shown to have remained outside the Treatment Building for four days after receiving notice that it was still hazardous waste. Batch 43 arrived on March 20, 2015, was initially treated on March 26, 2015, but did not ship until April 22, 2015, when it finally met treatment standards after 4 separate treatment events. This waste sat outside the Treatment Building, in an unpermitted area, while still characteristically hazardous (as indicated by the initial sample results received March 31, 2015) for a considerable length of time. Additionally, the volume of the waste in batch 43 doubled, and the resulting amount after treatment was six 20-cubic yard roll-offs, which exceeds the allowable storage capacity of SWMU #11.

Note that these examples are clear permit violations (alleged) since they occurred well before the April teleconference that resulted in the Department's letter of May 29, 2015. Based on the contents of that letter and the available notes, it does not appear that the participants from the Department were made aware of these issues, or that the alternate operating processes being requested were already in use at the facility.

The issues outlined above 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. The attached inspection report contains more information about these alleged violations.

In addition, EQ's permit states that 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. It took more than six days for EQ to unload the waste for batch 43 which arrived in two vac trucks. When they did finally unload the waste, it took a total of 5.5-hours for both vac trucks. Not only was it clearly more than the time allowed to unload the waste, 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.

These issues were left "open" in EQ's written response, to be discussed during the meeting on November 25, 2015. EQ was able to demonstrate that the time between treating and sampling was reasonable, however, admitted that they failed to meet the 5 day time period for unloading waste because of all the difficulties they were having getting the treatment "recipe" correct. They have apparently encountered problems here that the other EQ locations do not, primarily that Florida does not have the same types of industrial generators that generate regularly a homogeneous hazardous waste making it difficult to predict the amounts and type of stabilization reagents needed. Retreatment is therefore needed more often. They also indicated they have had more treatment business than originally expected, and the permit modification they were in the process of applying for would address this issue.

EQ's permit application is pretty clear that hazardous waste would remain in the treatment tank until it passed the required analytical tests, however, it does not appear that this occurred for very long, if at all. The discussion during the November 2015 meeting indicated that EQ decided the treated waste needed to be removed from the tank so that more waste could be treated while they waited on the analytical results. The Department was contacted for permission to do so afterward.

The conditional approval issued by the Department was based on information provided by EQ, and specifically states that "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." It also states "treated waste yielding results which 'failed' will...be immediately transferred from the T&S Area back to the treatment area for re-processing." EQ was unable

to comply with these conditions because often when results were received, there was already waste in the treatment tank, and there is only room for one extra roll-off in the treatment building. This was not apparently made clear to the Department during the April teleconference. The two day time frame for receipt of results was also apparently a "best case scenario" and often takes longer.

As indicated above, EQ is submitting a permit modification application proposing numerous changes to the facility, but as previously indicated, it is unclear if the changes can be permitted at this location.

15. Of the 97 hazardous waste manifests for waste treated on site reviewed, at least 76 (78%) were found to incorrectly completed by EQ: 40 CFR 264.71

Owners and operators of TSDFs are required to complete hazardous waste manifests in accordance with Section IV of the Appendix to Part 262. Specifically, the first TSDF 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. Manifests for just eight batches treated on site were reviewed, and at least 76 of the 97 reviewed were found to be incorrectly completed. The manifests are then returned to the generators, who use them to complete reports that are required to be submitted to the EPA/Department every two years. The incorrect information will therefore be perpetuated in those submitted reports.

EQ did not dispute this citation in its response and stated that they have corrected /are correcting the codes for its preprinted manifests. It also stated that Management Code requirements will be reviewed and included in employee refresher training. It is not clear in the response that they intend to notify their customers and provide corrected manifests, however.

16. Solid waste was being stored in unauthorized locations at the facility: Permit Condition V.B.10.a.(2); Permit Application, Engineering Report, Section 6.1.5 (62-701.320(1), Florida Administrative Code (F.A.C.); 403.161, F.S.)

The permit states that waste storage and management in the Solid Waste Operations Area are limited to the temporary staging of roll-off containers of solids or solidified wastes. Section 6.1.5 of the Engineering Report in the Permit Application indicates that the area outside the Treatment Building is for staging of solids or solidified wastes that are outbound to an off-site disposal facility. At the time of the inspection, at least one roll-off of incoming, unprocessed solid waste was observed being stored adjacent to treated haz boxes pending analysis. Facility staff indicated these materials had recently been delivered to the facility and were being staged in these areas temporarily.

EQ is not disputing this citation. The written response indicates that future storage will be in accordance with the permit.

17. The facility does not have all the equipment required by its permit: Permit Condition V.B.10.b.(1); Permit Attachment E; Permit Application, Engineering Report, Section 5.6.2 and Figure 9A (62-701.320(1), F.A.C.; 403.161, F.S.)

Permit Attachment E and Figure 9A of the Engineering Report both indicate two excavators/loaders/backhoes are to be located in the Treatment Building. At the time of the inspection, however, solid and hazardous wastes are conveyed, mixed and excavated using the same backhoe even though the permit specifies the use of two dedicated pieces of equipment. There was no evidence of decontamination when switching from SW to HW and vice versa.

In its written response, EQ indicates that decontamination does occur, although it is not explicitly stated, and references a document for a decontamination operating protocol. The referenced document is not part of the permit or the application, and the Department does not have a copy. During the meeting, EQ said early on they determined that there was not enough space to operate two dedicated pieces of equipment, and stated that decontamination definitely occurs when switching between nonhazardous and hazardous waste.

They stated that they would address the single piece of equipment and include the appropriate decontamination procedures in the permit modification application. EQ is to ensure the referenced document is included with the permit modification application.

Even though the permit requires two dedicated pieces of equipment, the Southwest District will not seek a penalty since the facility is claiming that decontamination does occur.

**Total Penalty Proposal:     \$106,989.00**

The District has calculated a civil penalty of \$106,989.00, plus \$1,000.00 in Department costs for this case in accordance with the attached penalty calculation work sheets. The calculated penalty proposed includes \$1,000.00 for economic benefit of noncompliance for avoided costs. A copy of the inspection report is also attached.

**Why compliance without enforcement is not an appropriate alternative:**

These alleged violations are considered a Significant Non Compliance (SNC) case under USEPA's *Hazardous Waste Civil Enforcement Response Policy* (12/2003). The number and type of alleged violations observed should not be occurring at a facility that is responsible for managing, treating and disposing of others' hazardous waste. Additionally, this facility has been in enforcement several times, and the most recent time, which occurred within the last year, was for a problem that was also noted during this inspection (failure to properly characterize waste).

cc: Bill Burns, Division of Waste Management, Compliance Assurance  
Glen Perrigan, Division of Waste Management, Compliance Assurance