

## Honey, Kelly

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**From:** Honey, Kelly  
**Sent:** Tuesday, March 22, 2016 5:12 PM  
**To:** Vaughn, Richard  
**Subject:** for review and signature - EQ Florida (FLD981932494) - Civil Penalty Authorization Memo for Secretary's Approval

Hi Rick –

As we discussed, here is the CPAM. I worked off the model on the Enforcement Manual, so if there's stuff or formatting that anyone doesn't like, I'm not sure how much I can change it. I put it all in a new folder, and numbered everything so hopefully it will be clear what's supposed to go up.

### [EQ Florida](#)

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**From:** Vaughn, Richard  
**Sent:** Tuesday, March 15, 2016 10:14 AM  
**To:** Honey, Kelly <Kelly.Honey@dep.state.fl.us>  
**Cc:** Boatwright, Kelley M. <Kelley.M.Boatwright@dep.state.fl.us>  
**Subject:** EQ consent order  
**Importance:** High

Kelly,

Please come and see me about EQ Florida. I have guidance for the consent order. This should be a top priority since Mike Halpin is wanting to see this as soon as possible.

Thank you,

Rick Vaughn  
Environmental Manager  
Compliance Assurance Program  
Florida Department of Environmental Protection

[Richard.Vaughn@dep.state.fl.us](mailto:Richard.Vaughn@dep.state.fl.us)

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CIVIL PENALTY AUTHORIZATION

SOUTHWEST FLORIDA DISTRICT

Investigator: Kelly Honey, ES III

Date Submitted: March 22, 2016

1. VIOLATOR(S): EQ Florida, Inc. (EPA ID #FLD981932494)
2. LOCATION OF VIOLATION: 2002 N. Orient Rd.  
Tampa, FL 33619  
Hillsborough County
3. NATURE OF VIOLATION:

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 April 1, 2014, 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. These included failing to store hazardous waste generated on site in closed and labeled containers, failing to ensure that all employees are adequately trained, failing to provide adequate secondary containment, failing to complete hazardous waste manifests correctly (e.g., discrepancies not noted, improper management method codes provided to generators, etc.), failing to use permit required forms, failing to ensure that waste on site does not exceed the maximum permitted storage limits, failing to properly characterize waste prior to treatment, and failing to comply with either the operational conditions in its current permit or with the conditions in the Department's subsequent conditional approval letter.

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, EQ 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. The facility's responses and the discussions at the two meetings were considered during the preparation of the proposed civil penalty.

A Peer Review Request Memorandum was prepared and routed through SWD Senior Management on March 2, 2016, for approval by the Permitting and Compliance Assistance Program Administrator. On March 11, 2016, the Division of Waste Management concurred with the proposed enforcement response and draft penalty calculation. Copies of both facility responses are attached, as are copies of the original inspection report, and the Peer Review Request.

4. PENALTY RATIONALE:

Penalty amounts were calculated in accordance with EPA and Department penalty policies, specifically, the *Guidelines for Characterizing RCRA Violations* as directed by the *Specific Compliance Assistance Guidelines For RCRA/Hazardous Waste* memorandum dated August 20, 2014. In most cases the potential for harm was determined using the Potential For Harm Ranking System in the Guidelines, as was the Deviation from the Rule. In some cases, the Potential for Harm and Deviation from the Rule were adjusted at the direction of SWD Senior Management. Economic Benefits of Noncompliance were calculated as directed in the US EPA 2003 RCRA Civil Penalty Policy. Penalty amounts that start at the top of the matrix range were selected based on the fact that the facility has been inspected numerous times by the Department, the Department closed its most recent enforcement action just three months prior to this inspection, and the facility is a permitted TSDF and should therefore be thoroughly familiar with both its permit and the applicable rules. Unlike most facilities, complying with RCRA rules is not something to be dealt with in addition to its regular business. For EQ, it *is* the business.

(REMAINDER OF PAGE LEFT INTENTIONALLY BLANK)

5. PENALTY RECOMMENDATION:

I recommend that \$90,029.00 in civil penalties be sought against EQ Florida, Inc. as calculated on the attached civil penalty worksheets. This amount includes an Economic Benefit of Noncompliance modifier of \$1,000.00 for delayed costs. The District is also proposing \$1,000.00 in Costs. The total proposed penalty, including the modifier and the Department's Costs, is therefore \$91, 029.00.

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Mary E. Yeargan, P.G.  
Director of District Management

The violations have legal merit and the penalty calculations are consistent with the Settlement Guidelines for Civil and Administrative Penalties.

\_\_\_\_\_  
Robert A. Williams  
Chief Deputy General Counsel  
Office of General Counsel

\_\_\_\_\_  
Yes

\_\_\_\_\_  
No

Date: \_\_\_\_\_

\_\_\_\_\_  
Paula Cobb  
Deputy Secretary, Regulatory Programs

\_\_\_\_\_  
Approved

\_\_\_\_\_  
Disapproved

Date: \_\_\_\_\_

*[Secretary's signature required if penalty is greater than \$50,000]*

\_\_\_\_\_  
Jonathan P. Steverson  
Secretary

\_\_\_\_\_  
Approved

\_\_\_\_\_  
Disapproved

Date: \_\_\_\_\_