



Jeb Bush
Governor

Department of Environmental Protection

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Colleen Castille
Secretary

CERTIFIED MAIL
7003 2260 0005 6067 6349

Mr. William Patterson
Oils Unlimited, Inc.
509 South French Ave.
Sanford, FL 32771

WARNING LETTER
OWL-HW-05-018

Attention: Mr. William Patterson

Seminole County - HW
Oils Unlimited, Inc.

Dear Mr. Patterson:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible, and to seek your cooperation in resolving the matter. A hazardous waste compliance inspection was conducted at your facility on January 21, 2005. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes in order to determine the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code [F.A.C.] Chapter 62-730, and 40 CFR 279, adopted in F.A.C. Chapter 62-710.

During the inspection, possible violations of Florida Statutes and Rules regarding hazardous waste management and used oil transportation, processing, and marketing were noted. These violations are set forth in "Summary of Potential Noncompliance Items and Corrective Actions" of the attached inspection report.

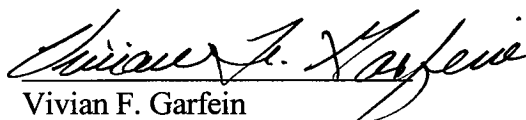
The activities observed during the Department's field inspection and any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately.

Please contact John Harris, Hazardous Waste Section, by telephone at (407) 893-3323 or by electronic mail at John.Harris@floridadep.net within 10 days of receipt of this letter to schedule an informal conference concerning resolution of this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred and whether any

are appropriate. You may bring anyone with you to the meeting that you feel could help resolve this matter.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. If after further investigation, the Department determines that the violations occurred, this matter may be resolved through entry of a Consent Order which will include a compliance schedule and an appropriate penalty. In accordance with the Department's January 24, 2002 "Settlement Guidelines for Civil and Administrative Penalties" and the RCRA Civil Penalty Policy of June, 2003, a draft penalty has been calculated and is attached. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,


Vivian F. Garfein
Director, Central District

May 10, 2005
Date

VFG/jh

Enclosures:
RCRA Inspection Report
Penalty Computation

cc: Steve Ray, FDEP, TAL, steve.ray@floridadep.net
Laurie Benton DiGaetano, EPA Region 4, digaetano.laurie@epa.gov
Debby Valin, FDEP, CD, debby.valin@floridadep.net
Tom Waters, Seminole Co., twaters@seminolecountyfl.gov



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HAZARDOUS WASTE INSPECTION REPORT

1. **INSPECTION TYPE:** ☒ Routine ☐ Complaint ☐ Follow-Up ☐ Permitting ☐ Pre-Arranged

FACILITY NAME Oils Unlimited, Inc. EPA ID # FLR000050369

STREET ADDRESS 509 S. French Ave., Sanford, FL 32771

E-MAIL ADDRESS N/A

COUNTY Seminole PHONE 407/302-3193 DATE 1/21/05 TIME 11:30 AM

NOTIFIED AS: ☐ N/A

CURRENT STATUS:

- ☒ Non Handler
☐ CESQG (<100 kg/mo.)
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☐ Transporter
☐ TSD Facility
Unit Type (s): Storage and Treatment
☒ Used Oil: marketer, transporter,
transfer facility

- ☐ Non Handler
☒ CESQG (<100 kg/mo.)
☐ SQG (100-1000 kg/mo.)
☐ Generator (>1000 kg/mo.)
☐ Transporter
☐ TSD Facility
Unit Type (s): Storage and Treatment
☒ Used Oil: transporter, marketer, processor

2. **APPLICABLE REGULATIONS:**

- | | | | |
|--|---|---|--------------------------------------|
| <input checked="" type="checkbox"/> 40 CFR 261.5 | <input checked="" type="checkbox"/> 40 CFR 262 | <input type="checkbox"/> 40 CFR 263 | <input type="checkbox"/> 40 CFR 264 |
| <input type="checkbox"/> 40 CFR 265 | <input type="checkbox"/> 40 CFR 266 | <input type="checkbox"/> 40 CFR 268 | <input type="checkbox"/> 40 CFR 273 |
| <input checked="" type="checkbox"/> 40 CFR 279 | <input checked="" type="checkbox"/> 62-710, FAC | <input checked="" type="checkbox"/> 62-730, FAC | <input type="checkbox"/> 62-737, FAC |

3. **RESPONSIBLE OFFICIAL(s):**

William Patterson, President

4. **INSPECTION PARTICIPANTS:**

FDEP: John Harris, Danielle
Spehar

Oils Unlimited, Inc.: Calvin Patterson, Karen Violet

5. **LATITUDE:** 28° 48' 27.1"N **LONGITUDE:** 81°16' 22.2"W

6. **SIC Code:** 5172

7. **TYPE OF OWNERSHIP:** Private Federal State County Municipal

8. **PERMIT #:** N/A **ISSUE DATE:** N/A **EXP. DATE:** N/A

9. **INTRODUCTION:**

On January 21, 2005, a compliance evaluation inspection was conducted at Oils Unlimited, Inc. (OUI), located at 509 South French Ave., Sanford, FL. OUI stores, transports, and markets used oil to industrial used oil burners. OUI is connected to the city water and sewer system. OUI has approximately three employees. Hosting the inspection and record review was Ms. Karen Violet, office manager, and Mr. Calvin Patterson, plant manager. Conducting the inspection were Mr. John Harris and Ms. Danielle Spehar.

History

OUI notified the Department of its used oil activities at this address in November 1998. The site had previously been owned by WT Harvey Oil Co. Until 2002, OUI operated adjunct to WT Harvey Oil Co. (WTHO). The site's tank farm housed storage capacity for used oil for both WTHO and OUI. OUI's used oil storage capacity at that time was less than 25,000 gallons. In 2002, OUI purchased the site, including the tanks, and increased its storage capacity to greater than 25,000 gallons.

10. **INSPECTION:**

Site Inspection

The facility consists of a tank farm, a loading and unloading area, a yard, and an office trailer.

The loading and unloading area consists of two sections: one section which has been taken out of service and houses a raised, wooden deck; the other section is currently used and consists of pipe connects above a concrete bermed area (used for secondary containment). OUI stated that approximately three to five loads of used oil are received per week.

On the deck, two 55-gallon drums were observed: one blue and one red. OUI was unable to identify the contents of the containers [40 CFR 262.11] and stated that the drums had remained on the property "for a long time". Department personnel observed petroleum stained soil under the deck, in front (west) of and behind (east) of the deck [40 CFR 279.54(g)]. A 16-gallon white drum of screen filters was observed. OUI personnel stated the filters were taken to Necessary Services, Inc., but did not know their fate. OUI stated that the filters had not been tested [40 CFR 262.11].

Department personnel observed a square ten-gallon bucket inside the concrete bermed area. The bucket contained used oil and was unlabeled [40 CFR 279.54(f)].

A shed is located east of the loading area. In the shed were two 55-gallon drums of used oil. The drums were inappropriately labeled as used oil filters [40 CFR 279.54(f)].

Also east of the loading area were two 55-gallon drums. One contained used oil and was not labeled [40 CFR 279.54(f)]. The other contained used absorbents but was inappropriately labeled as "Used Oil Filters". Petroleum stained soil was observed in front of the drums [40 CFR

279.54(g)]. Also observed was a blue, five-gallon bucket; its contents were unknown [40 CFR 262.11].

The tank farm consists of eight tanks within a concrete secondary containment wall. One tank was observed outside secondary containment, but was empty. According to OUI, six tanks are currently in use: four tanks holding 17,740 gallons each and two tanks holding 20,490 gallons each. Two tanks holding 5,000 gallons each were not in use. None of the tanks were labeled with the words "used oil" [40 CFR 279.54(f)].

In the southeast corner of the yard area is a solid waste dumpster. Inside the dumpster, Department personnel observed several non-empty aerosol cans containing toluene, xylene, and acetone [40 CFR 261.5].

OUI stated that it purchases and markets used oil as on-specification, as defined under 40 CFR 279.11. In the office trailer is an x-ray fluorescence machine which OUI claimed was used to analyze the oil to ensure compliance with requirements under 40 CFR 279.11. The machine was not operating at the time of inspection.

Record Review

According to facility personnel, OUI purchases the majority of its used oil from Central Florida Used Oil Services and Pilot Oil. Other purchases include used oil from Unitech Environmental Services, Necessary Services, On-Time Environmental, Stuart Oil, 4-Way Oil, M&M Environmental, Florida Gas Transmission, All American Used Oil, and Perma-Fix of Florida.

Facility personnel also indicated that oil is purchased from Merichem, in Alabama, and Combs Industrial in Nashville, and delivered to International Paper, Inc. by a subcontractor, Mark Lee Rowland of Rowland Trucking.

Of these facilities, OUI personnel stated that Pilot Oil, Central Florida Used Oil, Merichem, Combs Industrial, and Florida Gas Transmission do not analyze their oil for the constituents detailed under 40 CFR 279.11.

OUI's used oil analysis process pursuant to 40 CFR 279.72(a) was reviewed. Facility personnel stated that each truckload delivered is sampled and analyzed using the x-ray fluorescence machine. The used oil in the tanks is also tested as a batch when ready to be sold. However, OUI indicated that the machine had not been working for one and a half months prior to the date of the inspection. OUI personnel stated that only tests for halogen content (using a Dexil[®] kit) were being conducted [40 CFR 279.72(a)]. OUI personnel claimed that testing had been conducted prior to the machine's malfunction, however, records of testing were not maintained and could not be reviewed [40 CFR 279.72(b)].

OUI also stated that after the tanks are tested as a batch, used oil is added to the tanks after sampling and prior to sale. The addition of used oil to an analyzed batch will render that analysis to be non-representative of that batch [40 CFR 279.72(a)].

A review of OUI's manifests found that OUI did not list its transporter EPA ID number or the generator's EPA ID number on manifests. Manifests were not signed by OUI as having received a delivery, nor were manifests signed by the generator. Several manifests were found not to include the quantity of oil transported, or the date the oil was transported.[40 CFR 279.46; 40 CFR 279.56; 40 CFR 279.74].

Manifests for shipments of used oil by Rowland Trucking list Rowland Trucking as the generator of that used oil.

An exit interview was conducted with Ms. Karen Violet at the conclusion of the inspection and OUI was advised to:

1. Label all containers of used oil, including tanks, buckets, and drums, with the words "Used Oil".
2. Complete manifests with all appropriate information.
3. Conduct analysis pursuant to 40 CFR 279.72(a) and maintain records of those analyses.
4. Remediate the used oil discharges.
5. Determine the contents, to include a hazardous waste analysis, of the red and blue drums.
6. Investigate the fate of the absorbents and screening filters.
7. Do not dispose of hazardous waste aerosol cans to the dumpster.
8. Conduct safety training.

A response to the exit interview items was requested within 15 days.

Follow Up

On February 10, 2005, the Department met with Mr. Steve Lenius of Pilot Oil who verified the fact that Pilot Oil does not analyze the used oil transported to OUI.

On February 10, 2005, the Department received correspondence from OUI stating that the labeling of containers is not required due to OUI's claim that "all oil is tested and verified to be on-specification used oil".

On March 11, 2005, the Department received results from a composite sampling of the red and blue drums. The sample was analyzed by Summit Environmental Technologies, Inc. and results indicated undetectable levels of arsenic, cadmium, chromium, barium, selenium, silver, lead, and mercury. A chain of custody was not included nor was a complete TCLP test conducted on each individual unknown drum. Composite sampling of individual unknown waste drums is not considered a representative sample of the waste [40 CFR 262.11].

As of the date of this report, OUI has not provided documentation to verify remediation of the used oil discharges.

Because OUI is accepting used oil from other transporters which is not first claimed to meet on-specification standards, and because OUI cannot demonstrate its claim of managing on-specification used oil, the Department considers OUI to manage off-specification used oil. For these reasons and

because OUI has a capacity to store greater than 25,000 gallons of used oil and is a marketer of used oil, OUI meets the classification of a Used Oil Processor. As a Used Oil Processor, OUI is required to obtain a permit pursuant to Ch. 62-710.800, F.A.C., register annually with the Department pursuant to Ch. 62-710.500, F.A.C., and meet the requirements set forth under 40 CFR 279 Subpart F. OUI has failed to obtain a permit [Ch. 62-710.800, F.A.C.] or register with the Department [Ch. 62-710.500, F.A.C.] and has failed to comply with certain standards of 40 CFR Subpart F, (which have been further detailed under “Summary of Noncompliance Items and Corrective Action” below).

Areas of Concern

Rowland Trucking appears to be transporting used oil without an EPA identification number. This must be corrected by immediately applying for an EPA identification number using EPA Form 8700-12. Rowland Trucking is also signing shipping manifests as the generator of the used oil when, in fact, the used oil is not generated by Rowland Trucking. This must be corrected by having the actual generator of the used oil sign the used oil shipping manifests. OUI is advised that it shares joint and several liability with its subcontractors.

12. SUMMARY OF NONCOMPLIANCE ITEMS AND CORRECTIVE ACTIONS:

1) **Regulation: 40 CFR 261.5 – Failure to Ensure Proper Disposal**

By disposing of aerosol cans containing hazardous waste, OUI failed to ensure the proper disposal of hazardous waste.

Corrective Action: OUI must ensure that any and all hazardous waste is disposed of to an authorized facility.

2) **Regulation: 40 CFR 262.11 – Waste Determination**

OUI failed to conduct a waste determination on the red and blue drums. The information provided on March 11, 2005 is inadequate and the composite sampling procedure was inappropriate. OUI failed to conduct a waste determination on the aerosol cans disposed of to the dumpster. OUI failed to conduct a waste determination on the screening filters and absorbents disposed of through Necessary Services as non-hazardous waste.

Corrective Action: OUI must conduct discreet sampling of each drum and must not composite the material in the drums for analysis. Information to be provided to the Department must include a chain of custody and a description of the material analyzed as well as any Quality Control information from the testing laboratory. If the red and blue drums have been removed, OUI must provide that disposal information. OUI must conduct a waste determination prior to disposal of wastes. OUI must determine the fate of the screening filters and absorbents.

3) **Regulation: 40 CFR 279.54(f) - Labeling**

OUI failed to label tanks and containers of used oil with the words “Used Oil”.

Corrective Action: OUI must label all containers of used oil with the words “Used Oil”.

4) **Regulation: 40 CFR 279.54(g) – Response to Releases**

OUI failed to respond to discharges of used oil.

Corrective Action: OUI must remediate the discharges and submit documentation (e.g. photographs) to verify the remediation.

5) **Regulation: 40 CFR 279.46; 40 CFR 279.56; 40 CFR 279.74 - Manifests**

OUI failed to include shipment information on its used oil manifests.

Corrective Action: OUI must include quantities of used oil, EPA ID #'s of the generator and the transporter, and signatures of the generator and the receiving facility.

6) **Regulation: 40 CFR 279.72(a) – On-specification Analysis**

OUI failed to conduct analysis to support its claim that its oil is on-specification.

Corrective Action: OUI must not claim that its oil is on-specification unless information is available documenting analysis of every delivery and each discrete batch of used oil to support the on-specification claim. EPA Method SW-846 must be used when analyzing a non-wastewater. OUI must ensure that its method of analysis conforms to the requirements of EPA Method SW-846. It is not clear whether the x-ray machine conforms to the standards of SW-846. Evidence to this effect must be provided.

7) **Regulation: 40 CFR 279.72(b) – Record Retention**

OUI failed to maintain records of its analyses conducted to ensure compliance with 40 CFR 279.11.

Corrective Action: OUI must retain records of its analyses for a minimum of three years.

8) **Regulation: Ch. 62-710.500, F.A.C. – Registration**

OUI failed to register with the Department as a used oil processor.

Corrective Action: OUI must register with the Department as a used oil processor and register each thereafter by March 1 of that year.

9) **Regulation: Ch. 62-710.800, F.A.C.- Permit**

OUI failed to obtain a permit to operate as a used oil processor.

Corrective Action: OUI must obtain a permit from the Department to operate as a used oil processor.

13. **Conclusions:**

OUI was inspected as a Conditionally Exempt Small Quantity Generator of hazardous waste, a used oil processor, transporter, and marketer and was not in compliance at the time of inspection.

Please be advised that the findings in this report are based on the information available to the Department to date. Future information provided to the Department may affect the applicability of the citations referenced above and any pending agency action in accordance with Section 120.57(5), F.S.

Report Prepared By:



John Harris

Environmental Specialist

May 9, 2005

Date

Report Reviewed By:



Lu Burson

Environmental Manager

May 9, 2005

Date

PENALTY COMPUTATION WORKSHEET

Violator's Name: Oils Unlimited, Inc.

Identify Violator's Facility: Oils Unlimited, Inc., 509 S. French Avenue, Sanford, FL

Name of Staff Responsible for the Penalty Computations: John Harris Revision Date: 3/22/05

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Multi Day	History of Noncompliance 10% per year	Total
1.	40 CFR 261.5	17.3	Minor	Major	\$3,299-1,650			\$2,475
2.	40 CFR 262.11	3.1	Minor	Major	\$3,299-1,650			\$2,475
3.	279.54(f)	ELRA*	ELRA	ELRA	\$500			\$500
4.	279.54(g)	ELRA	ELRA	ELRA	\$2,000			\$2,000
5.	279.46; 279.56;279.74	ELRA	ELRA	ELRA	\$500			\$500
6.	40 CFR 279.72(a)	ELRA	ELRA	ELRA	\$500			\$500
7.	40 CFR 279.72(b)	ELRA	ELRA	ELRA	\$500			\$500
8.	Ch. 62-710.500	ELRA	ELRA	ELRA	Included below			N/A
9.	Ch. 62-710.800	ELRA	ELRA	ELRA	\$3,000			\$3,000

*Environmental Litigation Reform Act

(Examples of Adjustments/Lack of Adjustments)

None.

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:

\$11,950.00

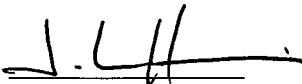
Costs and Expenses incurred by the Department:

\$250.00

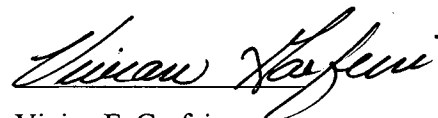
TOTAL:

\$12,200.00

Prepared by:



John Harris
Environmental Specialist



Vivian F. Garfein
Director, Central District

5/9/05

Date

5/10/05

Date

WORKSHEET
RANKING SYSTEM FOR POTENTIAL FOR HARM

FACILITY NAME: Oils Unlimited, Inc. Revised Date: 3/22/05

EPA ID No.: Non-notifier

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
1.	262.11	Determination	4	2	4	2	12

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	4 - Release	4 - > 1,000
	5 - 1, 000 to 5,000 kg	4 - High potential for release	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 1,000 kg (5 drums)		2 - 10 - 100
		1 - No release	1 - <10

MAJOR POTENTIAL FOR HARM: 19-24

MODERATE POTENTIAL FOR HARM: 13-18

MINOR POTENTIAL FOR HARM: 8-12

ONLY VIOLATIONS IN WHICH A "POTENTIAL FOR HARM" SCORE IS REQUIRED ARE LISTED ON THIS PAGE.