



Department of Environmental Protection

Jeb Bush
Governor

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

Colleen Castille
Secretary

March 14, 2005

CERTIFIED MAIL

7003 1010 0005 0769 5488

Mr. Bart D. Phillips
600 Old Sanford Oviedo Boulevard
Winter Springs, Florida 32708

OCD-HW-C/E-05-0071

Seminole County-HW
419 Metal and Auto Recycling Center, Inc.

Dear Mr. Phillips:

Hazardous waste compliance inspections were conducted at the facility referenced above on December 21, 2004 and January 25, 2005. The inspections were conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes. The inspections are designed to ascertain the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code Chapter 62-730 and 40 CFR 279, adopted in Florida Administrative Code Chapter 62-710.

Enclosed is a copy of a Notice of Violation and Orders for Corrective Action describing the findings from the Department's inspections. Please pay particular attention to the Notice of Rights section starting in paragraph 48. If you have any additional questions please feel free to call me at (407) 893-3323.

Sincerely,


Leah Proffitt
Environmental Specialist
Hazardous Waste

Enclosure: Notice of Violation

**BEFORE THE STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

IN THE OFFICE OF THE
CENTRAL DISTRICT

Complainant,

v.

OGC File No. 05-0188
CESQG NON-NOTIFIER

419 METAL AND AUTO RECYCLING CENTER, Inc.,
and BART D. PHILLIPS,

Respondents.

**NOTICE OF VIOLATION, ORDERS FOR CORRECTIVE ACTION,
AND ADMINISTRATIVE PENALTY ASSESSMENT**

To: Bart D. Phillips
600 Old Sanford Oviedo Road
Winter Springs, FL 32708

419 Metal and Auto Recycling Center, Inc.
600 Old Sanford Oviedo Road
Winter Springs, FL 32708

Certified Return Receipt Nos.

7003 1010 0005 0769 5488

7004 2510 0007 0429 9046

Pursuant to the authority of Section 403.121(2), Florida Statutes ("Fla. Stat."), the State of Florida Department of Environmental Protection ("Department") gives notice to 419 Metal and Auto Recycling Center, Inc., and Bart D. Phillips, (collectively referred to as "Respondents") of the following findings of fact and conclusions of law with respect to violations of Chapters 325, 376, and 403, Fla. Stat., and Chapters 62-710 and 62-730, Florida Administrative Code ("Fla. Admin. Code").

This space intentionally left blank.

FINDINGS OF FACT
PARAGRAPHS APPLICABLE TO ALL COUNTS

1. The Department is the administrative agency of the state of Florida having the power and duty to protect Florida's air and water resources and to administer and enforce the provisions of Chapters 325, 376, and 403, Fla. Stat., and the rules promulgated thereunder in Florida Administrative Code Title 62. To ensure consistency between the state and federal used oil programs, the text of relevant provisions of Title 40 Code of Federal Regulations ("C.F.R.") Part 279, has been adopted by reference in Chapter 62, Fla. Admin. Code

2. Respondent 419 Metal and Auto Recycling Center, Inc., ("419, Inc.") is an active Florida for-profit business, originally organized under the laws of the State of Florida on or about March 22, 1993, and located at 600 Old Sanford Oviedo Road, Winter Springs, Seminole County, Florida, 32708.

3. Respondent 419, Inc. operates as an automotive and metal recycling business on a parcel of real property located at 600 Old Sanford Oviedo Road, Winter Springs, Seminole County, Florida, 32708 ("Facility").

4. Respondent Bart D. Phillips ("Phillips") is a natural person who operates 419, Inc. and is the on-site manager responsible for managing the Facility's overall operations. Respondent Phillips is also the President and sole corporate officer of Respondent 419, Inc.

5. Respondent Phillips holds the record title to the real property located at 600 Old Sanford Oviedo Road, Winter Springs, Seminole County, Florida, 32708.

6. On December 21, 2004, the Department inspected 419, Inc. to determine its compliance status with Title 40 C.F.R. Parts 260-268 and 279, adopted in Fla. Admin. Code Chapters 62-710 and 62-730. The Department's inspection of the Facility revealed evidence of unlabeled tanks and containers of used oil. Car bodies and other solid waste had been placed within a retention pond and associated wetlands. Furthermore, the Facility is not in possession

of a Multi-Sector Generic Permit ("MSGP") as required by the National Pollutant Discharge Elimination System ("NPDES").

7. On January 25, 2005, Department personnel conducted a follow-up inspection at the Facility. This inspection revealed that the majority of used oil containers remained unlabeled; paperwork documenting proper disposal of waste tires was not available for Department review; and documentation of a waste determination on slag generated from an onsite aluminum sweat furnace was also unavailable. The inspection also revealed evidence of unremediated used oil spills in the vicinity of the used oil tanks and vehicle processing area.

COUNT I

8. On or before December 21, 2004, Respondents failed to label containers and tanks of used oil at the Facility with the words "Used Oil".

COUNT II

9. On or before December 21, 2004, Respondents disposed of solid waste, including car bodies, within 200 feet of a natural or artificial body of water at the Facility. The Respondents do not have a Department permit for the disposal of solid waste at the Facility.

COUNT III

10. On or before December 21, 2004, Respondents failed to obtain a Multi-Sector Generic Permit ("MSGP") as required by the National Pollutant Discharge Elimination System ("NPDES").

COUNT IV

11. On or before January 25, 2005, Respondents failed to document proper disposal of waste tires.

COUNT V

12. On or before January 25, 2005, Respondents failed to document a proper waste determination with regard to slag generated from an aluminum sweat furnace at the Facility.

COUNT VI

13. On or before January 25, 2005, Respondents failed to respond to used oil releases to the ground at the Facility.

COUNT VII

14. The Department has incurred expenses to date while investigating this matter in the amount of not less than \$500.00.

CONCLUSIONS OF LAW

The Department has evaluated the Findings of Fact with regard to the requirements of Chapters 325, 376, and 403, Fla. Stat., and Fla. Admin. Code Title 62. Based on the foregoing facts the Department has made the following conclusions of law:

15. Each Respondent is a "person" as defined in Sections 376.301(27), 403.031(5), and 403.75(3), Fla. Stat.

16. The automotive and metal recycling operations at the Facility include but are not limited to the handling, management and disposal of solid wastes, including used oil, waste antifreeze, waste gasoline, waste batteries, waste tires, and waste materials. Furthermore, used oil and used oil filters are considered "pollutants" within the meaning of Section 376.301(34), Fla. Stat.; and waste antifreeze and waste batteries are considered "hazardous substances" within the meaning of Section 376.301(20), Fla. Stat.

17. Respondents 419, Inc. and Phillips are each a "generator" of used oil within the meaning of Fla. Admin. Code R. 62-710.210(2) (adopting 40 C.F.R. Part 279.1).

18. The Facility is a "waste tire site" as defined in Section 403.717(1)(g) Fla. Stat.

19. The facts related in Count I constitute a violation of Fla. Admin. Code R. 62-710.210(2) (adopting 40 C.F.R. Part 279.22(c)), which requires used oil generators to label all containers and tanks of used oil with the words "Used Oil." These facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

20. The violation in Count I requires the assessment of administrative penalties under Section 403.121(5), Fla. Stat., of \$500.00 for failure to comply with a departmental regulatory statute or rule requirement.

21. The facts related in Count II constitute a violation of Fla. Admin. Code R. 62-701.300(1)(a), which prohibits a person to store or dispose of solid waste except at a solid waste management facility. The facts also constitute a violation of Fla. Admin. Code R. 62-701.300(2)(f), which prohibits the storage or disposal of solid waste within 200 feet of a natural or artificial body water, unless authorized by a Department permit. Finally, the facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

22. The violation in Count II requires the assessment of administrative penalties under Section 403.121(3)(e), Fla. Stat., of \$2,000.00 for unpermitted or unauthorized disposal or storage of solid waste; plus \$1,000.00 if the waste is disposed of or stored in any natural or artificial body of water.

23. The facts related in Count III constitute a violation of Fla. Admin. Code R. 62-621.300(5)(a), which requires industrial recycling facilities to obtain a Multi-Sector Generic Permit for Stormwater Discharges. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

24. The violation in Count III requires the assessment of administrative penalties under Section 403.121(4)(b), Fla. Stat., of \$4,000.00 for failure to obtain the appropriate permit coverage and to implement all permit requirements.

25. The facts related in Count IV constitute a violation of Fla. Admin. Code R. 62-711.540(1)(g), which requires site operators to maintain records documenting waste tires received, stored, and/or shipped from the site. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

26. The violation in Count IV requires the assessment of administrative penalties under Section 403.121(5), Fla. Stat., of \$500.00 for failure to prepare, submit, maintain, or use required reports or other required documentation.

27. The facts related in Count V constitute a violation of Fla. Admin. Code R. 62-730.160 (adopting 40 C.F.R. Part 262.11), which requires any person who generates solid waste to perform a waste determination on it to determine proper disposal requirements, including the presence of hazardous constituents. The facts also constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules.

28. The facts related in Count VI constitute a violation of Fla. Admin. Code R. 62-710.210(2) (adopting 40 C.F.R. Part 279.22(d)), which requires a used oil generator to stop, contain, and immediately clean up releases of used oil. These facts also constitute a violation of Section 376.302(1)(a), Fla. Stat., which renders it a violation of the Florida Pollutant Discharge Prevention and Control Act to discharge pollutants or hazardous substances into or upon the surface or ground waters of the state or lands, which discharge violates any departmental "standard" as defined in Section 403.803(13), Fla. Stat. Finally, the facts constitute a violation of Section 403.161, Fla. Stat., which makes it a violation to fail to comply with Department rules and a violation to cause pollution.

29. The violation in Count VI requires the assessment of administrative penalties under Section 403.121(3)(e), Fla. Stat., of \$2,000.00 for failure to properly dispose or store solid waste in compliance with departmental regulatory statute or rule requirement.

30. The administrative penalties assessed for Count I – VI total \$10,000.00.

31. The costs and expenses related in Count VII are reasonable costs and expenses incurred by the Department while investigating this matter, which are recoverable pursuant to Section 403.141(1), Fla. Stat.

ORDERS FOR CORRECTIVE ACTION

The Department has alleged that the activities related in the Findings of Fact constitute violations of Florida law. The Orders for Corrective Action state what you, Respondents, must do in order to correct and redress the violations alleged in this Notice.

The Department will adopt the Orders for Corrective Action as part of its Final Order in this case unless Respondents either file a timely petition for a formal hearing or informal proceeding, pursuant to Section 403.121(2)(c), Fla. Stat. (see *Notice of Rights*). If Respondents fail to comply with the corrective actions ordered by the Final Order, the Department is authorized to file suit seeking judicial enforcement of the Department's Order pursuant to Sections 120.69, 403.121, and 403.131, Fla. Stat.

Pursuant to the authority of Sections 403.061(8) and 403.121, Fla. Stat., the Department proposes to adopt in its Final Order in this case the following specific corrective actions that will redress the alleged violations:

32. The corrective actions identified in this section apply to each Respondent. Liability between Respondents 419 Metal and Auto Recycling Center, Inc., and Bart D. Phillips is joint and several. Respondents will be referred to collectively in the sections below.

33. Respondents shall forthwith comply with all Department rules regarding used oil. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapter 403, Fla. Stat., and all applicable rules in 40 C.F.R. Part 279, and Fla. Admin. Code Chapter 62-710.

34. Respondents shall forthwith comply with all Department rules regarding solid waste management. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapters 325 and 403, Fla. Stat. and all applicable rules in Fla. Admin. Code Chapter 62-701.

35. Respondents shall forthwith comply with all Department rules regarding wetlands and surface waters. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapters 325 and 403, Fla. Stat.

36. Respondents shall forthwith comply with all Department rules regarding stormwater permitting for industrial activity. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapters 325 and 403, Fla. Stat.

37. Respondents shall forthwith comply with all Department rules regarding waste tire management. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapters 325 and 403, Fla. Stat.

38. Respondents shall forthwith comply with all Department rules regarding hazardous waste management. Respondents shall correct and redress all violations in the time periods required below and shall comply with all requirements of Chapters 325 and 403, Fla. Stat. and all applicable rules in 40 C.F.R., Parts 260-266 and 268, and Fla. Admin. Code Chapter 62-730.

39. **Commencing immediately and henceforth**, Respondents shall label ALL containers and tanks of used oil with the words "Used Oil."

40. **Within 30 days of the effective date of this Order**, Respondents shall remove all car bodies, solid waste, and other fill material from within 200 feet of wetlands and surface waters.

41. **Within 15 days of the effective date of this Order**, Respondents shall submit the attached Notice of Intent (Exhibit III) with the \$500.00 processing fee to the address on page 3 of the form.

42. **Within 60 days of the effective date of this Order**, Respondents shall submit a copy of the facility Stormwater Pollution Prevention Plan (SWPPP) to State of Florida

Department of Environmental Protection, Hazardous Waste Program, Central District, 3319
Maguire Boulevard, Suite 232, Orlando, FL 32803.

43. **Commencing immediately and henceforth**, Respondents shall maintain required documentation of proper disposal of waste tires and management of waste batteries at the Facility. Records shall be maintained on site and available for inspection for a minimum of three years.

44. **Within 15 days of the effective date of this Order**, Respondents shall perform a waste determination in the form of laboratory analysis on the slag generated from the aluminum sweat furnace at the Facility. The slag shall be disposed of in accordance with the results of the waste determination. Documentation of the laboratory analysis shall be maintained on site and available for inspection for a minimum of three years. In addition, Respondents must show compliance with the March 23, 2000, air emission standard with regard to secondary aluminum processing units, as published in Federal Register Vol. 65, No. 57: "Dioxin/furan (D/F) emissions from each sweat furnace must be controlled to 0.8 nanograms of D/F toxic equivalent per dry standard cubic meter at eleven percent oxygen." (See "*New Regulation Controlling Emissions from Secondary Aluminum Production*" EXHIBIT II).

45. **Within 15 days of the effective date of this Order**, Respondents shall contract with a reliable consulting firm and/or laboratory to implement Corrective Actions to address the historical used oil releases and notify the Department of the firm selected. Corrective Action activities shall be conducted as outlined in the "*Site Screening Plan*" attached as EXHIBIT I, within the time frames set forth therein. The Corrective Actions shall include assessment of soil and groundwater. No sampling or remediation activities shall be initiated without prior approval of a Site Screening Plan from the Department.

46. **Within 10 days of the effective date of this Order**, Respondents shall pay \$10,000.00 to the Department for the administrative penalties imposed above. Payment shall be made by cashier's check or money order payable to the "State of Florida Department of

Environmental Protection” and shall include thereon the OGC case number 05-0188 and the notation “Ecosystem Management and Restoration Trust Fund.” The payment shall be sent to the State of Florida Department of Environmental Protection, Central District, 3319 Maguire Boulevard, Suite 232, Orlando, FL 32803.

47. **Within 10 days of the effective date of this Order**, Respondents shall make payment to the Department for costs and expenses in the amount of \$500.00. Payment shall be made by cashier’s check or money order payable to the “State of Florida Department of Environmental Protection” and shall include thereon the OGC case number 05-0188 and the notation “Ecosystem Management and Restoration Trust Fund.” The payment shall be sent to the State of Florida Department of Environmental Protection, Central District, 3319 Maguire Boulevard, Suite 232, Orlando, Florida 32803-3767.

NOTICE OF RIGHTS

Respondents’ rights to negotiate, litigate, or transfer this action are set forth below.

Right to Negotiate

48. This matter may be resolved if the Department and Respondents enter into a Consent Order, in accordance with Section 120.57(4), Fla. Stat., upon such terms and conditions as may be mutually agreeable.

Right to Request a Hearing

49. Each Respondent has the right to a formal administrative hearing pursuant to Sections 120.569, 120.57(1), and 403.121(2), Fla. Stat., if the Respondents dispute issues of material fact raised by this Notice of Violation, Orders for Corrective Action, and Administrative Penalty Assessment (“Notice”). At a formal hearing, Respondents will have the opportunity to be represented by counsel, to present evidence and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders, and to file exceptions to any order or administrative law judge’s recommended order.

50. Each Respondent has the right to an informal administrative proceeding pursuant to Sections 120.569 and 120.57(2), Fla. Stat., if Respondents do not dispute issues of material fact raised by this Notice. If an informal proceeding is held, the Respondents will have the opportunity to be represented by counsel, to present to the agency written or oral evidence in opposition to the Department's proposed action, or to present a written statement challenging the grounds upon which the Department is justifying its proposed action.

51. If the Respondents desire a formal hearing or an informal proceeding, Respondents **must** file a written responsive pleading entitled "Petition for Administrative Proceeding" within 20 days of receipt of this Notice. The petition must be in the form required by Fla. Admin. Code R. 62-110.106 and by Fla. Admin. Code R. 28-106.201 or 28-106.301. A petition is filed when it is **received** by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida, 32399-3000. The Department will not entertain a request for extension of time to file a Petition for Administrative Proceeding.

Right to Mediation

52. If Respondents timely file a petition challenging the Notice, the Respondents have the right to mediate the issues raised in the Notice. If requested, a mediator will be appointed to assist the Department and Respondents reach a resolution of some or all of the issues. The mediator is chosen from a list of mediators provided by the Florida Conflict Resolution Consortium ("FCRC"). The FCRC will provide up to eight hours of free mediation services to the Respondents. A mediator cannot require the parties to settle the case. If mediation is unsuccessful, both parties retain their full rights to litigate the issues before an administrative law judge. The Respondents must select the mediator and notify the FCRC within 15 days of receipt of the list of mediators. The mediation process does not interrupt the time frames of the administrative proceedings and the mediation must be completed at least 15 days before the date of the final hearing.

53. The written request to appoint a mediator must be made within 10 days after receipt of the Initial Order from the administrative law judge appointed to hear the case. The request must be received by the Florida Conflict Resolution Consortium, Shaw Building, Suite 132, 2031 E. Paul Dirac Drive, Tallahassee, Florida, 32310, 850-644-6320, flacrc@fsu.edu. Once the request is timely received, the FCRC will provide the parties with a list of mediators and the necessary information.

Right to Opt Out of the Administrative Proceeding

54. If Respondents do not wish to contest the issues before an administrative law judge, Respondents may file a notice with the Department opting out of the administrative process. Respondents must file its written opt out notice within 20 days after service of the Notice. The written notice to opt out is filed when it is **received** by the Department's Office of General Counsel, 3900 Commonwealth Boulevard, MS-35, Tallahassee, Florida 32399-3000.

55. Once the Respondents opt out of the administrative process, the Department may sue the Respondents for injunctive relief, damages, costs and expenses, and civil penalties. If the Respondents opt out of the administrative process, the Department may ask the judge to assess civil penalties in excess of the amounts in this Notice up to \$10,000.00 per day, per violation. The election to opt out of the administrative process is permanent and once the election is made the administrative process cannot be restarted.

Waivers

56. Respondents will waive the right to a formal hearing or an informal proceeding if either:

- a. a petition for a formal hearing or informal proceeding is not filed with the Department within 20 days of receipt of this Notice, or
- b. a notice opting out of the administrative proceeding is not filed with the Department within 20 days of receipt of this Notice.

These time limits may be varied only by written consent of the Department.

General Provisions

57. The Findings of Fact and Conclusions of Law of this Notice, together with the Orders for Corrective Action and Administrative Penalty Assessment will be adopted by the Department in a Final Order if Respondents fail to timely file a petition for a formal hearing or informal proceeding, pursuant to Section 403.121, Fla. Stat. A Final Order will constitute a full and final adjudication of the matters alleged in this Notice.

58. If Respondents fail to comply with the Final Order, the Department is authorized to file suit in circuit court seeking a mandatory injunction to compel compliance with the Order, pursuant to Sections 120.69, 376.303, 403.121, 403.131, and 403.727, Fla. Stat. The Department may also seek to recover damages, all costs of litigation including reasonable attorney's fees and expert witness fees, and civil penalties of not more than \$10,000 per day for each day that Respondents have failed to comply with the Final Order.

59. Copies of the Department rules referenced in this Notice may be examined at any Department Office or may be obtained by written request to the District Office.

DONE AND ENTERED this 14th day of March, 2004 in Orlando, Florida.

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION



Vivian F. Garfein
Director of District Management
Florida Department of Environmental Protection
Central District Office
3319 Maguire Blvd, Suite 232
Orlando, Florida 32803

3 Exhibits: Site Screening Plan
Secondary Aluminum Standards
Notice of Intent

Copies furnished to: Larry Morgan, Deputy General Counsel, OGC
FDEP Hazardous Waste, Tallahassee
Geoff Rabinowitz, FDEP Stormwater Program, Tallahassee
FDEP Central District Solid Waste
EPA Region 4

EXHIBIT I
SITE SCREENING PLAN

The purpose of the Site Screening Plan (SSP) is to locate and sample areas of contaminated soil to determine whether a discharge of hazardous waste or used oil has occurred. If test results indicate further site examination is warranted, you may be required to conduct additional sampling, including groundwater sampling.

Within 30 days receipt of this letter, please provide the Florida Department of Environmental Protection (Department) with a SSP for review. The SSP shall describe following:

1. A site diagram depicting all areas of potential contamination and corresponding sample locations.

These locations should include, but not be limited to, used oil, spent antifreeze, and waste gasoline or waste battery storage areas. Also, it should include any other location where a discharge of hazardous waste, gasoline, used oil or other automotive fluid is suspected or known to have occurred.

2. Detail the sampling methods that address the contaminants of concern. The sampling methods must conform to the Department's Bureau of Laboratories Standard Operating Procedures (SOP), which may be accessed at, <http://www.dep.state.fl.us/labs/sop/index.htm>.

Within 30 days of receipt of the Department's written approval of the SSP, the facility shall initiate the sampling described above.

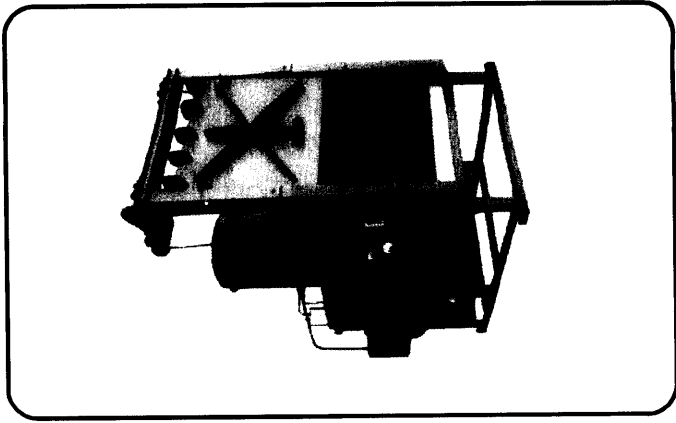
Notify the Department at least 10 days before sampling in order to allow Department personnel to observe the sampling process and/or take split samples. When the Department chooses to split samples, the raw data shall be exchanged between the Department and the facility as soon as the data are available.

Within 30 days of completion of the sampling described in the SSP, submit a report to the Department containing the sampling results including quality control data, as well as all applicable site maps, and surveys.

1. The sampling professional shall document that all field sampling activities were conducted in compliance with the Department's SOP for Field Activities, incorporated by reference in 62-160.800, Florida Administrative Code.
2. Please confer with your consultant and analytical laboratory to determine if the detection limits are the lowest that can be achieved for the chemicals of concern. If the analytical method that will be used is not capable of achieving analytical detection limits that are at or below Industrial or Leaching Soil Cleanup Target Levels (SCTLs) as published in 62-777, FAC, an alternate method must be used. However, if the analytical method that was employed uses the most sensitive and currently available technology and the Method Detection Limit is higher than a specific Industrial or Leaching SCTL, the Method Detection Limit must be reported.



New Regulation Controlling Emissions from Secondary Aluminum Production (Sweat Furnace Operations)



You may also contact the EPA Regional Office in your state or territory.

Region	States	Telephone
1	CT, ME, MA, NH, RI, VT	(617) 918-1314
2	NJ, NY, Puerto Rico, Virgin Islands	(212) 637-4023
3	DE, MD, PA, VA, WV, District of Columbia	(800) 438-2474
4	AL, FL, GA, KY, MS, NC, SC, TN	(404) 562-9131
5	IL, IN, MI, WI, MN, OH	(312) 353-6684 (312) 886-6794 (312) 353-9228
6	AR, LA, NM, OK, TX	(214) 665-7296
7	IA, KS, MO, NE	(913) 551-7566
8	CO, MT, ND, SD, UT, WY	(303) 312-6581
9	AZ, CA, HI, NV, American Samoa, Guam	(415) 744-1219
10	AK, ID, WA, OR	(206) 553-4273

STATE OR LOCAL REQUIREMENTS

• How does the new EPA regulation relate to state or local requirements?

Some state or local agencies have existing control requirements that you must continue to meet. Check with your state or local agency for the specific requirements that apply to your sweat furnace operation.

Most state and local permit authorities also have operating permit programs (a Clean Air Act requirement under Part 70) that you must comply with. However, under this new regulation for sweat furnaces, EPA has specified that the state or local permit authority has discretion to defer operating permits until December 9, 2004 for sweat furnace operations at area sources of HAPs (i.e., facilities that emit, or have the potential to emit considering controls, less than 10 tons per year of any individual HAP or less than 25 tons per year of any combination of HAPs). This deferral is not automatic, so you should check with your state or local agency to see if your operation has a deferral.

FOR MORE INFORMATION

• Whom can you contact?

For more information, contact your state or local air pollution control agency, state Small Business Assistance Program (SBAP), or state Small Business Ombudsman (SBO). Remember, states and local agencies may have additional requirements. The State and Territorial Air Pollution Program Administrators and Association of Local Air Pollution Control Officials (STAPPA/ALAPCO) website is: <http://www.4cleansair.org>
 A list of the state SBAP and SBO contacts can be found at: <http://www.epa.gov/ttn/sbap/offices.html>

• What test methods must I use in conducting performance tests?

The test method required to determine dioxin/furan (D/F) emissions is EPA Reference Method 23. This method and other test methods can be found in the Code of Federal Regulations (CFR), Appendix A, 40 CFR Part 60, or the Emissions Measurement Center (EMC) website at: <http://www.epa.gov/ttn/emc>

• What are the monitoring requirements for afterburners?

You must operate a device that continuously monitors and records the afterburner operating temperature. This device must be installed at the exit of the afterburner's combustion zone, and it must record the temperature in 15 minute block averages and also determine and record the average temperature for each three-hour block period.

You must prepare and implement for each emission unit, a written Operation Maintenance and Monitoring (OM&M) plan, approved by your permitting authority, that shows how you are complying with the national standards.

You must also inspect each afterburner at least once a year and record the results of the inspection. Repairs must be completed in accordance with the OM&M plan. You must maintain files of all information (including all reports and notifications) for at least five years for each affected source with emissions controlled by an afterburner.

This pamphlet is intended for general reference only; it is not a full and complete statement of the technical or legal requirements associated with the regulation. A copy of the rule can be obtained from the Federal Register or the EPA's Air Toxics Website (ATW) rule and implementation page for secondary aluminum at: <http://www.epa.gov/ttn/taqw/alum2nd/alum2pg.html>

If you need TTN assistance, call (919) 541-5384.

EPA'S NEW REGULATION CONTROLLING EMISSIONS FROM SWEAT FURNACE OPERATIONS

• The U.S. Environmental Protection Agency (EPA) has issued national regulations to control air emissions from secondary aluminum production facilities. These facilities include aluminum scrap shredders, thermal chip dryers, scrap dryers/delacquering kilns/decoating kilns, group 2 furnaces (processing clean charge only and no reactive fluxing), sweat furnaces, dross-only furnaces, and rotary dross coolers.

This brochure presents a summary of the requirements of the standard for owners and operators of sweat furnaces only (i.e., emission limits, performance testing, and operating and monitoring requirements). The full regulation appeared in the March 23, 2000, edition of the Federal Register [Vol. 65, No. 57, beginning on page 15690].

GENERAL INFORMATION

- **What is a sweat furnace?**
A sweat furnace is a unit designed and used exclusively to reclaim aluminum from scrap that contains substantial quantities of iron by using heat to separate the low melting point aluminum from the scrap while the higher melting point iron remains in solid form. These units are also commonly known as dry hearth furnaces.
- **Where are sweat furnaces located?**
Due to their small size and portability, sweat furnaces are common in many industries.

They are used to process scrap that cannot be processed in other furnaces. For example, scrap yards use sweat furnaces to reclaim aluminum from many forms of scrap (sheet and cast aluminum), and automotive salvage yards use them to reclaim aluminum from unusable auto parts (such as, transmissions).

- **Why are sweat furnaces included in the regulation?**

The Clean Air Act directs EPA to regulate emissions of 188 toxic chemicals, which include organic hazardous air pollutants (HAPs), inorganic gaseous HAPs (hydrogen chloride, hydrogen fluoride and chlorine), and particulate HAP metals. Some of these pollutants, including dioxins are known to, or suspected of, causing cancer, and all are harmful to humans.

The secondary aluminum regulation helps protect public health by requiring that you reduce air emissions from your sweat furnace to comply with the national limits.

EPA estimates that with full compliance with this rule, nationwide toxic emissions would be reduced by about 12,400 tons per year (11,300 megagrams/year). Emissions of other pollutants, such as particulate matter and volatile organic compounds, would also be reduced.

- **When must I meet these standards?**

If your operation is an existing source (a sweat furnace that began construction or reconstruction prior to February 11, 1999), then you must be in compliance no later than March 24, 2003. On the other hand, if you operate a new source

(constructed or reconstructed after February 11, 1999), then you must have complied by March 23, 2000, or upon startup, whichever is later.

- **How much will it cost?**

Estimates of the average cost for adding an afterburner to a sweat furnace to control dioxin/furan (D/F) emissions range from \$8,000 to \$58,000, depending on the size of the furnace.

- **What happens if I don't comply?**

If you fail to comply with the requirements of the rule, you could face legal action under the Clean Air Act. You may be assessed civil penalties of \$25,000 per day for non-compliance.

SWEAT FURNACE REQUIREMENTS

- **Does this regulation apply to me?**

The secondary aluminum production regulation applies to ALL sweat furnace operations regardless of their location and size.

- **What emission limits must sweat furnaces meet?**

If you are an owner/operator of a sweat furnace, you must control the dioxin /furan (D/F) emissions from each sweat furnace to 0.80 nanogram of D/F toxic equivalent per dry standard cubic meter (3.5 x 10⁻¹⁰ grain per dry standard cubic foot) at 11 percent oxygen.

As an alternative, you may operate and maintain an afterburner with a design residence time of 0.8* seconds or greater and an operating temperature of 1600 °F or greater. If you elect to

comply with these afterburner requirements, you would not be required to conduct emissions testing to show compliance with the emission limit.

- **What operating standards must I meet?**

If you choose to install and operate an afterburner with a design residence time of 0.8* seconds or greater and an operating temperature of 1600 °F or greater, then you must maintain the average afterburner temperature at no less than 1600 °F. The afterburner must operate in accordance with your operation maintenance and monitoring plan.

However, even if you are using an afterburner, you can choose to comply with the emission limits by conducting an initial compliance test. In this case, you must then maintain the afterburner average operating temperature at the level established during the performance test.

- **When must I conduct performance tests?**

If you choose to demonstrate compliance with the requirements of the regulation by conducting an initial compliance test, then the test must be conducted prior to the compliance deadline.

If you choose to comply with the alternative equipment standard, you are not required to conduct emission testing.

*The rule is being amended to reflect this time.



**NOTICE OF INTENT
TO USE
MULTI-SECTOR GENERIC PERMIT FOR
STORMWATER DISCHARGE
ASSOCIATED WITH INDUSTRIAL ACTIVITY
(RULE 62-621.300(5), F.A.C.)**

This form is to be completed and submitted to the Department before use of the Multi-Sector Generic Permit for Stormwater Discharge Associated with Industrial Activity (MSGP) provided in Rule 62-621.300(5), F.A.C. The type of facility or activity that qualifies for use of this generic permit, the conditions of the permit, and additional requirements to request coverage are specified in Rule 62-621.300(5)(a), F.A.C. Note that additional requirements for requesting coverage include submittal of the applicable generic permit fee pursuant to Rule 62-4.050, F.A.C. You should familiarize yourself with the generic permit and the attached instructions before completing this form. **Please print or type information in the appropriate areas below.**

I. IDENTIFICATION NUMBER: Facility ID _____

II. APPLICANT INFORMATION:

A. Operator Name:		
B. Address:		
C. City:	D. State:	E. Zip Code:
F. Operator Status:	G. Responsible Authority:	
	H. Phone No.:	

III. FACILITY LOCATION INFORMATION:

A. Facility Name:		
B. Street Address:		
C. City:	D. State:	E. Zip Code:
F. County:	G. Latitude: ° ' "	Longitude: ° ' "
H. Is the facility located on Indian lands? <input type="checkbox"/> Yes <input type="checkbox"/> No		I. Water Management District:
J. Facility Contact:		K. Phone No.:

IV. FACILITY ACTIVITY INFORMATION:

A. SIC or Designated Activity Code(s)		Primary:	Secondary:
B. Monitoring code (1, 2, 3, or 4):		C. Will construction be conducted for stormwater controls? <input type="checkbox"/> Yes <input type="checkbox"/> No	
D. Other Existing Permits		ERP No.:	Wastewater Permit No.:
		Other (specify):	

V. DISCHARGE INFORMATION

A. MS4 Operator Name:							
B. Discharge Location(s):							
Outfall No.	Latitude			Longitude			Receiving Water Name
	Deg.	Min.	Sec.	Deg.	Min.	Sec.	

VI. CERTIFICATION¹:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Name and Official Title (Type or Print):

Signature: _____

Date Signed: _____

¹ Signatory requirements are contained in Rule 62-620.305, F.A.C.

INSTRUCTIONS – DEP FORM 62-621.300(5)(b)
NOTICE OF INTENT (NOI) TO USE MULTI-SECTOR GENERIC PERMIT FOR STORMWATER
DISCHARGE ASSOCIATED WITH INDUSTRIAL ACTIVITY (MSGP)

Who Must File an NOI:

Federal law at 40 CFR Part 122 prohibits point source discharges of stormwater associated with industrial activity to waters of the United States without a National Pollutant Discharge Elimination System (NPDES) permit. Under the State of Florida's delegated authority to administer the NPDES program, operators that have stormwater discharge associated with industrial activity to surface waters of the State must file for and obtain either coverage under an appropriate generic permit contained in Chapter 62-621, Florida Administrative Code (F.A.C.), or an individual permit issued pursuant to Chapter 62-620, F.A.C.

Where to File NOI:

NOIs for coverage under this generic permit must be sent to the following address:

NPDES Stormwater Notices Center, MS #2510
Florida Department of Environmental Protection
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Part I – Identification Number

Enter the facility's DEP identification number (generic permit coverage number) if known. If an ID number has not yet been assigned to this facility, leave this item blank.

Part II – Applicant Information

Item A.: Provide the legal name of the person, firm, public organization, or any other entity that operates the facility described in this application. The operator of the facility is the legal entity which controls the facility's operation rather than the plant or site manager. The name of the operator may or may not be the same as the name of the facility.

Items B. – E.: Provide the complete mailing address of the facility operator, including city, state, and zip code.

Item F.: Enter the appropriate one letter code from the list below to indicate the legal status of the operator of the facility:

F = Federal; S = State; P = Private; M = Public (other than federal or state); O = Other

Items G. – H.: Provide the name and telephone number (including area code) of the person authorized to submit this application on behalf of the facility operator. This should be the same person as indicated in the certification in Part VI.

Part III – Facility Location Information

Items A. – E.: Enter the facility's official or legal name and complete street address, including city, state, and zip code. Do not provide a P.O. Box number as the street address.

Item F.: Enter the county in which the facility is located.

Item G.: Enter the latitude and longitude of the approximate center of the facility.

Item H.: Indicate whether the facility is located on Indian lands.

Item I.: Enter the appropriate five or six letter code from the list below to indicate the Water Management District the facility is located within:

NWFWMD = Northwest Florida Water Management District
SRWMD = Suwannee River Water Management District
SFWMD = South Florida Water Management District
SWFWMD = Southwest Florida Water Management District
SJRWMD = St. John's River Water Management District

Items J. – K.: Give the name, title, and telephone number (including area code) of the person who is thoroughly familiar with the operation of the facility, with the facts reported in this application, and who can be contacted by the Department if necessary.

Part IV – Facility Activity Information:

Item A.: List, in descending order of significance, up to two 4-digit standard industrial classification (SIC) codes that best describe the principal products or services provided at the facility identified in Part III. For industrial activities defined in 40 CFR 122.26(b)(14)(i)-(xi) that do not have SIC codes that accurately describe the principal products produced or services provided, use the appropriate two letter code from the list below:

HZ = Hazardous waste treatment, storage, or disposal facilities, including those that are operating under interim status or a permit under subtitle C of RCRA. [40 CFR 122.26(b)(14)(iv)]

LF = Landfills, land application sites, and open dumps that receive or have received any industrial wastes, including those that are subject to regulation under subtitle D of RCRA. [40 CFR 122.26(b)(14)(v)]

SE = Steam electric power generating facilities, including coal handling sites. [40 CFR 122.26(b)(14)(vii)]

TW = Treatment works treating domestic sewage or any other sewage sludge or wastewater treatment device or system used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage. [40 CFR 122.26(b)(14)(ix)]

Item B.: Enter the appropriate 1-digit monitoring code for the facility from the list below. The monitoring requirements for the facility are contained in the MSGP.

1 = Not subject to monitoring requirements under the conditions of the permit.
2 = Subject to monitoring requirements and required to submit data.
3 = Subject to monitoring requirements but not required to submit data.
4 = Subject to monitoring requirements but submitting certification for monitoring exclusion.

Item C.: Indicate whether any construction will be conducted to install or develop stormwater controls..

Item D.: Provide the permit number for any existing state, federal, or local environmental permit(s) issued to the facility, including any environmental resource permit (ERP) issued by DEP or the Water Management District; any DEP wastewater facility permit; and, any EPA-issued NPDES permit.

Part V – Discharge Information

Item A.: If the facility discharges stormwater associated with industrial activity to a municipal separate storm sewer system (MS4), enter the name of the operator of the MS4 (e.g., municipality name, county name), and in Item B of this Part enter “MS4” as the outfall number and indicate the receiving water of the discharge from the MS4. (See Chapter 62-624, F.A.C., for the definition of an MS4.)

Item B.: If the facility discharges stormwater associated with industrial activity directly to receiving water(s), list each outfall; the receiving water of each outfall; and, the latitude and longitude of each outfall if available.

Part VI – Certification

Type or print the name and official title of the person signing the certification. Sign and date the certification.

Section 403.161, F.S., provides severe penalties for submitting false information on this application (NOI) or any reports or records required by a permit. There are both civil and criminal penalties, in addition to the revocation of permit coverage for submitting false information.

Rule 62-620.305, F.A.C., requires that the application (NOI) and any reports required by the permit to be signed as follows:

- A. For a corporation, by a responsible corporate officer as described in Rule 62-620.305, F.A.C.;
- B. For a partnership or sole proprietorship, by a general partner or the proprietor, respectively; or,
- C. For a municipality, state, federal or other public facility, by a principal executive officer or elected official.