



Compliance in the Yard – What You Don't Know Can (and Will) Hurt You!

ISEC – San Antonio, TX Nov. 3, 2009

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Topics

- Agenda
- Introductions
 - Basic Definitions
 - 1st Coast Recycling Issues
 - Applicable Regulations
 - Consequences = Cost



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Definitions

Hazardous Waste

- RCRA – Resource Conservation and Recovery Act; public law that creates the framework for the proper management of hazardous and nonhazardous solid waste.

Hazardous Waste – 40 CFR §261.10- (i) Cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness; or

(ii) Pose a substantial present or potential hazard to human health or the environment when it is improperly treated, stored, transported, disposed of or otherwise managed

- Hazardous Waste Discharge – the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste into or on any land or water.
- Generators – any person, by site, whose act or process produces hazardous waste identified or listed or whose act first causes a hazardous waste to become subject to regulation.

Petroleum Products

- Used Oil - means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.
- Used Gasoline- any gasoline used to degrease parts or as part of a cleaning process at the facility



Applicable Regulations

- **RCRA**
 - System for controlling hazardous waste.
 - Prevention of environmental problems – “cradle to the grave”
 - Cleaning up environmental problems caused by mismanagement of wastes
- **SPCC – Spill, Prevention, Control and Countermeasure Plan**
 - What triggers need for developing plan?
 - Exemptions
 - Plan without implementation
- **SWPPP – Storm Water Pollution Prevention Plan**
 - Each state has different regulations (Check what your state’s regulations)



Good old days vs. Life after environmental enforcement



CUYAHOGA RIVER



Chronology of FDEP Inspections of 1st Coast Recycling

- Initial site visit from Florida Department of Environmental Protection (FDEP)
- Follow up visit by FDEP
- Receipt of letter for Notice of Violations (NOV)
- Contracted environmental firm and environmental attorney
- Response to NOV: letter and meeting with FDEP
- Environmental firm completed SWP³ and SPCC plan for facility
- FDEP letter for confirmatory sampling of contaminated areas
- Response to letter
- Initiating FDEP approved soil sampling protocol



1st Coast Recycling Issues – Hard Lessons Learned

- **Notice of Violation (NOV) Letter from the Florida Department of Environmental Protection (FDEP)**
 - Violations
 - Failure to make a hazardous waste determination (HW16; 40 CFR 262.11)
 - Failure to properly label drums (UO 146; 40 CFR 279.22 (c)(1))
 - Waste oil vs. Used oil
 - Failure to cleanup spilled oil in designated period of time (UO 140; 40 CFR 279.22 (d))
 - Proper response and reporting
 - Failure to provide secondary containment (UO 144; 62-710.401(6)FAC)
 - Link to 40 CFR: <http://www.epa.gov/lawsregs/search/40cfr.html>




Oil Spill Located Under Scrapped Vehicle





Removal of AST from petroleum impacted area by baler.





Excavation of petroleum impacted area by baler down to native soil.





Backfilling area with clean fill material.





Extent of petroleum source removal area by baler





Former car processing area with small petroleum spill





Excavation of petroleum impacted soils by former car processing area





Backfill with clean limerock into excavation area





Final product after backfilling





FDEP Penalty Calculation Sheet

Violator's Name: <u>1st Coast Recycling, Inc.</u>				Inspected: <u>August 6, 2008</u>
Identify Violator's Facility: <u>108 Seaboard Drive. Palatka, Florida 32177</u>				
#	Guideline	Description	Potential for Harm	Extent of Deviation
1	HW 16	Failure to make a hazardous waste determination.	Minor based on ranking (4+2+4+2)	Always major.
2	UO 146	Failure to label used oil drums with the words "Used Oil".	Minor based on ranking (4+2+1+2)	Always major.
3	UO 140	Failure to respond to a used oil release.	Moderate based on ranking (4+5+6+2).	Always major.
4	UO 144	Failure to provide secondary containment.	Moderate based on ranking (4+5+4+2).	Always major.



1st Coast Recycling: Penalty Computation Worksheet

FDEP worksheet of penalties prior to meeting

	Violation Type	Guideline	Potential for Harm	Extent of Deviation	Matrix Amount	Multi-Day	Economic Benefit	Adjustments	Total
1	<u>40 CFR 262.11</u>	HW 16	<u>Minor</u>	<u>Major</u>	<u>\$2,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$2,900</u>
2	<u>40 CFR 279.22 (c)(1)</u>	UO 146	<u>Minor</u>	<u>Major</u>	<u>\$900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$900</u>
3	<u>40 CFR 279.22 (d)</u>	UO 140	<u>Moderate</u>	<u>Major</u>	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
4	<u>62-710.401(6).FAC</u>	UO 144	<u>Moderate</u>	<u>Major</u>	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
	Subtotal				<u>\$11,600</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$11,600</u>
	20% Willful Non-Compliance/Lack of Good Faith								<u>\$2,320</u>
	Total Penalties								<u>\$13,920</u>



Adjusted Penalty Computation Worksheet

Fines adjusted after negotiating with FDEP at meeting

	Violation Type	Guideline	Potential for Harm	Extent of Deviation	Matrix Amount	Multi-Day	Economic Benefit	Adjustments	Total
1	40 CFR 262.11	HW 16	Minor	Major	<u>\$2,170</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$2,170</u>
2	40 CFR 279.22 (c)(1)	UO 146	Minor	Major	<u>\$550</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$550</u>
3	40 CFR 279.22 (d)	UO 140	Moderate	Major	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
4	62-710.401(6).FAC	UO 144	Moderate	Major	<u>\$3,900</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$3,900</u>
	Subtotal				<u>\$10,520</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>\$10,520</u>
	10% Willful Non-Compliance/Lack of Good Faith								<u>\$1,160</u>
	Total Penalties								<u>\$11,680</u>



Penalties

- Penalties Incurred
 - Fines levied against facilities can vary by state and by agency levying fines.
 - Penalties can be negotiated. Exception is if fines labeled as majored are computed prior to meeting with agency.
 - Can negotiate the Willful Non-Compliance
 - Potential for Harm vs. Extent of Deviation
 - Major vs Minor violations
 - Willful vs. Unwillful violations



Response to FDEP Violations

- Properly labeled drums
- Construction of secondary containment areas
- Separation of wastes by characterization following regulations
- Development of spill response team and SPCC plan

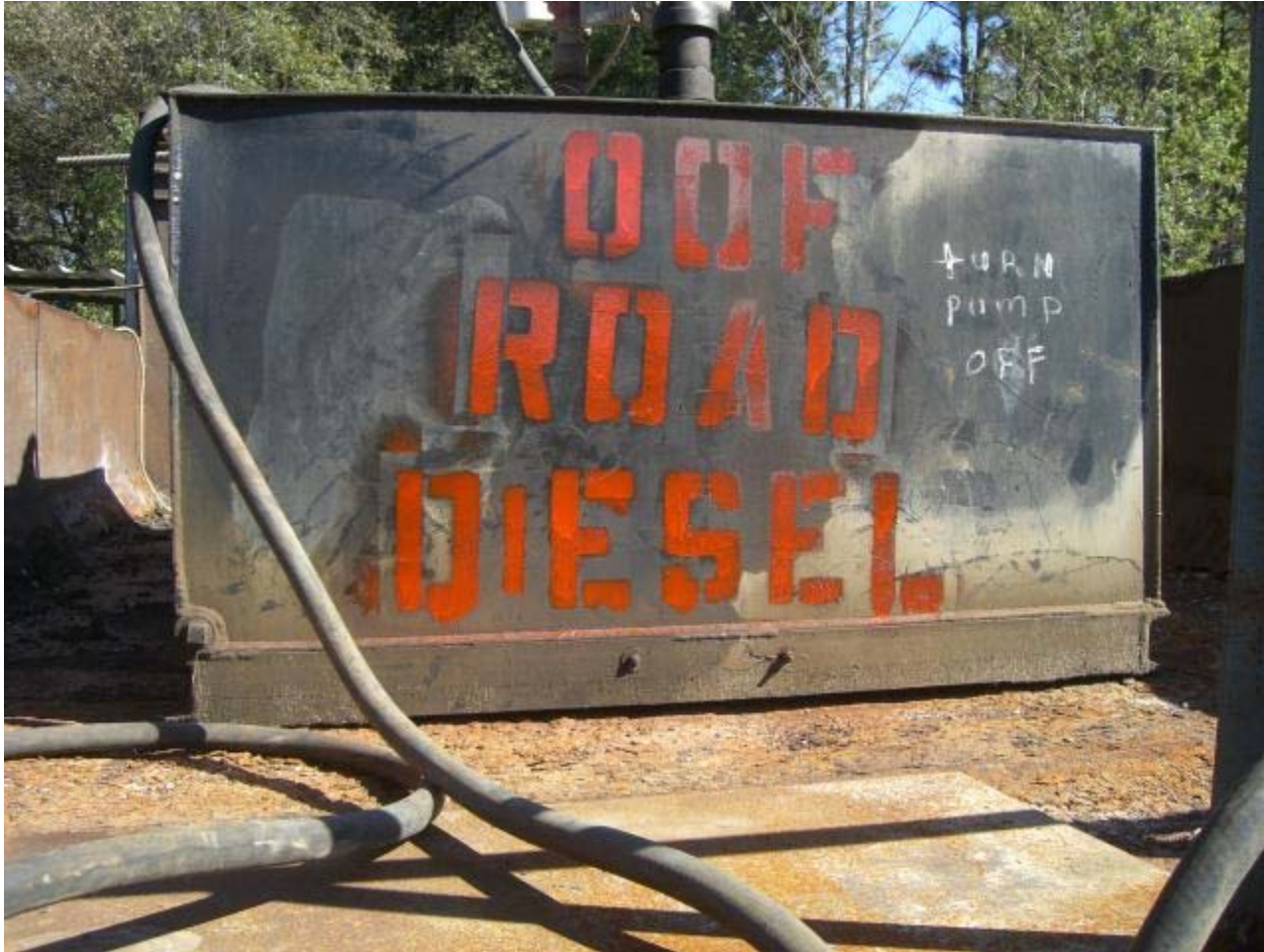


Aboveground Storage Tanks (ASTs) properly labeled with secondary containment walls.





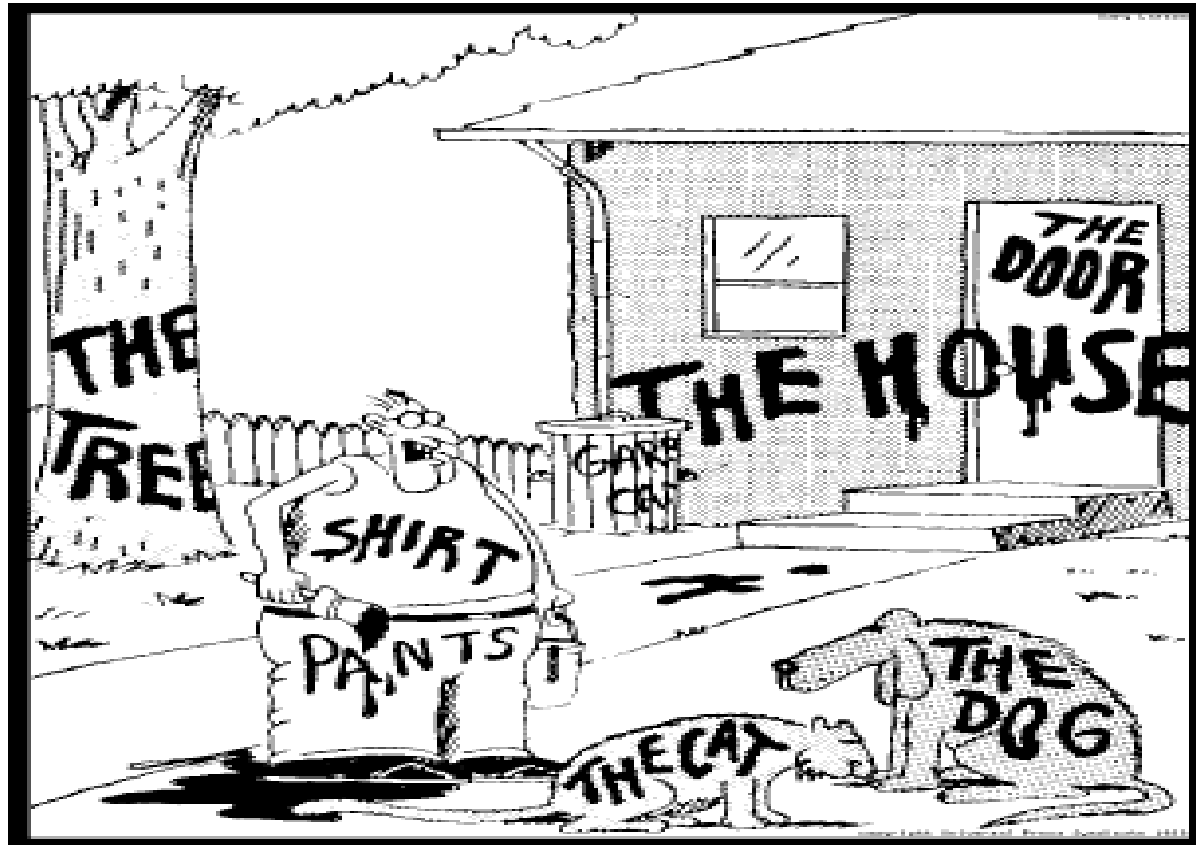
Off road diesel vs. Oof road diesel? Is oof road diesel considered hazardous?





Properly labeled AST





"Now! *That* should clear up a few things around here!"



Secondary containment wall built surrounding bailer.





Effective secondary containment?





Car processing area with secondary containment wall





Spill Kit in place for emergency spill response crew.





Applicable Regulations for Scrap Recycling Facilities

A. Waste Issues

- Hazardous waste
- Petroleum
 - Spill, Prevention, Control and Countermeasure (SPCC) plan- regulates non-transportation-related onshore and offshore facilities that could reasonably discharge oil into navigable water of the United States or adjoining shorelines.
 - When are SPCC plans required?
 - >1,320 gallons capacity of oil in aboveground storage tanks (AST)
 - >42,000 gallons of underground storage capacity
 - Used oil/gasoline
 - Petroleum spills/cleanup
 - Spill prevention team
 - Spill kits
 - Reporting procedures



Applicable Regulations continued

- Recyclables
 - Batteries – storage and disposal; considered universal waste (category of waste material not designated as “hazardous waste”, but containing materials that need to be prevented from being released into the environment)
 - Mercury
 - Recycling-no storage limit or hold time
 - If labeled as waste need to be managed as hazardous waste.
- Non-hazardous/Non-petroleum
 - Metals
 - Wastewater – needs to be containerized if water comes into contact with petroleum (petroleum contact water) or greased metal part (during cleaning of equipment)



Environmental Issues in Regulations

I. Stormwater

- With increased inspections from state environmental agencies facilities need to have SWPPP's in place and personnel properly trained.
- Monitoring will prevent costly issues from arising
- Importance of keeping any potentially hazardous materials from leaving your facility.

II. Protection of Soil/Groundwater Monitoring

- Spill prevention key in areas with perched or high water tables.
- Immediate reporting, prompt protection of area and clean up of ALL spills.
- Creation of spill kits, trained spill prevention teams for emergency spill response
- Disposal of impacted materials

III. Wetland Considerations

- a. Facility expansions
- b. Reduction of impacts on nearby wetlands
- c. Wetland delineations and permitting
- d. Wetland mitigation banks
- e. State vs Army Corp of Engineers regulations

IV. Threatened and Endangered Species

- a. Threatened vs. endangered species
- b. How can their presence on or nearby your facility affect you?
- c. Penalties incurred from disturbance of Threatened and Endangered species



What's it going to cost us?

- a. Big Mac combo at McDonalds
- b. Current resale value of a 1984 Yugo
- c. **\$180,000 - \$200,000**
- d. National debt of Uganda
- e. TARP
- f. U.S. stimulus package



The answer is....

When in doubt the answer is always C.



Consequences = Cost

A. Penalties

- Levels of penalties dependent upon infraction (Major/minor scale)
- Fines
- Possible Jail Time
- Seizure of property and company assets

B. Environmental Assessment and Cleanup

- Required after a reported discharge or other incident.
- Assessment often expensive and time consuming. May lead to additional work.
- Accurate recordkeeping important during assessment and cleanup.
- Important to hire knowledgeable, reputable firm to assist in clean up process to avoid additional work.
- Long-term monitoring may be required even after the assessment and cleanup has been completed.



Penalties versus Compliance

C. Compliance IS cheaper than penalties

- Cost of training personnel vs. risk of injury to untrained personnel or property damage
- Development of appropriate plans
- Record of compliance of value to agencies
- Non-compliance = penalties + lost time + unfavorable reputation – profits

D. Willful Non-compliance can = jail time

- What is willful non-compliance according to the law?
Willful non-compliance - - knowingly continuing with an action that is contrary to stated guidelines
Agencies use the term when levying violations as means of legal recourse should the offender opt not to move into compliance with the stated deficiency



Mr. Dugan, may I be excused? My brain is full.



Questions?

Thank you!

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