

Florida Department of Environmental Protection



Southeast District Office

Case Study **B & A Manufacturing, Inc.**

2013





History - Recalcitrant

1985 – first inspection

- Found discharges, cleaned up under CO, waste cleanup documents in Oculus from 1991 to 1994, final case closure 1997.

2007 –

- Complaint referral from PBCHD; possible mismanagement of HW, housekeeping issues, lack of accountability, contradictory statements!



Discharges

Inspection in 1985





Current Case Inspection

June 18, 2012





Issues Found

- Lack of accountability – last HW manifest 2007
- Multiple violations of SQG requirements
 - labeling, incomplete MCP, no container inspections, over 180 days storage, start dates
 - Unknowns – both 55 & 5 gallon containers.



Unacceptables













PERCHLOR

WASH
THINNER

BLACK
MAGIC

ANTICORT

USED
OIL



[illegible]

FLAMMABLE LIQUID

3

KEEP OUT OF REACH OF CHILDREN

OUT OF REACH OF CHILDREN
CONTENTS: 1 GALLON (128 FL. OZ.) (3.785 LITERS)
5 GALLONS (640 FL. OZ.) (18.937 LITERS)
55 GALLONS (1320 FL. OZ.) (100.07 LITERS)
EMERGENCY - CALL 1-800-444-8000

IN CASE OF CHEMICAL EMERGENCY

**SOUTHEASTERN
CHEMICAL
INDUSTRIES, INC.**
PORT ORANGE, FL 32067









Records Review

- One disposal receipt in last 3 years, two drums non-hazardous “coolant” & one drum non-hazardous cutting sludge – process knowledge!
- As stated before, no SQG required paperwork
- Since inspection did dispose of what appears to be acidic plating baths



Enforcement

- Began Peer Review Process in Dec 2012, final approval to send Warning Letter early May 2013
- Warning Letter sent out 4/7/13 without penalties, draft penalties (\$44,919)
- Enforcement meeting 05/02/2013 – didn't deny anything in report; still owed documents to show compliance and not allowed to discuss penalties at meeting.
- Couldn't negotiate until law enforcement made arrested
- Penalty was recalculated per new Guidelines, mid-July
- New penalty, revised per the guidelines (\$18,423)
- Still have to account for new POH rankings; therefore, number may change again
- To avoid blowing timeframes, use "referred to criminal" on 5/6/2013.



Date: 8/2/2013

PART I - Class A Penalty Determinations

Violation #	Alleged Violation Type	Guidelines for Characterizing Violations	Potential for Harm	Extent of Dev.	Matrix Amount	Multi-day	Adjustments	Economic Benefit Calculation	Total
#1	40 CFR Part 262.11 Hazardous Waste Determination	HW Page 4	Moderate*	Major (1a)	\$11,330	Unable to calculate	\$2,833 25% upward	Not pursued	\$14,163
#2, #4, #6	40 CFR Part 262.34(d)(4) SQG Container Management (Hazardous Waste Labeling, Accumulation Start Dates, Hazardous Waste Labeling, Container Inspections)	HW Page 5 & 7	Minor*	Moderate (1, 3)	\$710	Unable to calculate (#4)	\$178 25% upward (#4)	Not pursued (#4)	\$888
#3	40 CFR Part 262.34(f) Accumulation Timeframes	HW Page 5	Minor*	Major (1)	\$2,130		\$533 25% upward	Not pursued	\$2,663
#5, #7	40 CFR 262.34(d)(5)(ii) & 40 CFR Part 265.37 Modified Contingency Plan; Arrangements With Local Authorities	HW Page 8	Minor	Moderate (2)	\$710				\$710
* See attached Ranking System for Potential for Harm Worksheets							Penalties Subtotal:		\$18,423
							Department Costs:		\$500
							Total:		\$18,923

All penalty calculations are based on the Florida Department of Environmental Protection Hazardous Waste Regulation Section's "Guidelines for Characterizing RCRA Violations" revised as of June 28, 2013. Certain violations require Potential for Harm Ranking System characterization and have been utilized where applicable; refer to the attached Ranking System for Potential for Harm worksheet. The attached civil penalty worksheets are formulated and tendered only in the context of settlement negotiations in order to attempt to reach a cooperative settlement.



Parallel Proceedings

Originally officer that affidavit was done for retired two months later, than had merger with FWC

Finally reassigned but by then DA said good case but information to old

Accompanied single officer through facility as technical expert - added to original affidavit immediately afterwards

Owner arrested second week of July, can now move forward with negotiations.

Remember, they can't use your information to prop up their case and you can not use theirs!



Criminal

- Received complaint from SWO – informant
- Ask FDEP for technical assistance
- Obtained search warrant based on the observations made by both FDEP and FWC
- Served warrant and had OER obtain samples of suspected waste
- Obtained a felony warrant for owners arrest based on sample results
- Warrant for illegal treatment of HW and storage over 180 days



Questions?

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