



Linda S. Adams
Secretary for
Environmental Protection



Department of Toxic Substances Control

Maureen F. Gorsen, Director
700 Heinz Avenue
Berkeley, California 94710-2721



Arnold Schwarzenegger
Governor

January 23, 2008

Mr. Stephen Douglas
Compliance Manager
Evergreen Oil, Inc.
6880 Smith Avenue
Newark, California 94560

**FIRST NOTICE OF DEFICIENCY FOR EVERGREEN OIL, INC. – FRESNO,
4139 NORTH VALENTINE AVENUE, FRESNO, CALIFORNIA,
EPA ID No. CAD 982446882**

Dear Mr. Douglas:

The Department of Toxic Substances Control (DTSC) has reviewed your Standardized Permit Application (Application), received December 29, 2006, for the Evergreen Oil Inc. – Fresno facility at 4139 North Valentine Avenue in Fresno. The Application was reviewed for compliance with applicable requirements of Title 22, California Code of Regulations. DTSC has found that the Application does not fully comply with the regulations set forth in Title 22, California Code of Regulations. The enclosed Notice of Deficiency explains the sections of the Application which must be revised.

Two copies of the revised Application must be submitted to our office by February 25, 2008. The revised Application should supersede your previous submittal and must stand on its own.

Failure to provide adequate responses to the Notice of Deficiency by the deadline of February 25, 2008 may result in our decision to issue a Notice of Decision to deny the permit application in accordance with Section 25186 of the California Health and Safety Code and Section 66270.43, Title 22, California Code of Regulations.

Mr. Stephen Douglas
January 23, 2008
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If you have any questions, please contact me at 510-540-3946 (office),
510-812-6269 (cell), or awong@dtsc.ca.gov.

Sincerely,

//Original signed by//

Alfred Wong
Senior Hazardous Substances Engineer
Permit Renewal Team

Enclosure

**NOTICE OF DEFICIENCY
FOR EVERGREEN ENVIRONMENTAL SERVICES - FRESNO
EPA ID No. CAD 982446882**

<u>Section</u>	<u>Comment</u>
Form 1093A, V	Please provide landowners information.
Form 1093A, VIII.A	There are 3 storage units that will be regulated by the Standardized Permit, not 2. The 3 storage units are Containment Area #1, Containment Area #2, and Truck-to-Truck Transfer, Loading, and Unloading Area. This is acknowledged in Section VIII.E of the 1093A Form.
Form 1093A, VIII.C	Please include the capacity of the Truck-to-Truck Transfer, Loading, and Unloading Area. The total storage capacity should be 48,843 gallons (33,838 for Containment Area #1, 550 gallons for Containment Area #2, and 14,400 gallons for Truck-to-Truck Transfer, Loading, and Unloading Area).
Form 1093A, VIII.E	This section states that the facility stores up to eleven 55-gallon drums of hazardous waste, 10 of which are stored in Containment Area #2. Where is the eleventh drum of hazardous waste stored?
Form 1093A, XII	The landowner must signed the landowner's certification.
Unit Specific Form	<p>The process codes should be "S1" and "S2", not "51" and "52." Please change the "51" and "52" to "S1" and "S2", respectively.</p> <p>Containment Area #1 is used for tank storage. Please remove process code S1 in Section II and III for this unit.</p> <p>Waste codes 221 is usually used for waste/used oil, 222 for oil/water separation sludge, 241 for tank bottom waste, and off-specification, aged, or surplus organics and are not usually associated with non-RCRA wastewater. Please explain why these codes are being used for non-RCRA wastewater.</p> <p>Form 1093A, Section VIII.E states that the facility stores up to eleven 55-gallon drums of hazardous waste. The Unit Specific Form for Containment Area #2 only shows container</p>

storage for 10 drums. Please explain where the eleventh drum is stored.

Form 1093A, Section VIII.E and the Unit Specific Form for Truck-to-Truck Transfer, Loading, and Unloading Area states that truck-to-truck transfer of hazardous waste occurs. This is usually done by pumping waste from one truck into another truck. A storage facility, as defined in California Health and Safety Code, Section 25123.(b)(6), mean a hazardous waste facility where hazardous waste is held at a transfer facility at any location for any period of time and handling occurs. Title 22, California Code of Regulations, Section 662610.10 defines “handling” as the transporting or transferring from one place to another, or pumping, processing, storing or packaging of hazardous waste, but does not include the handling of any substance before it becomes a waste. Since pumping and thus, handling, occurs, the truck-to-truck transfer, loading, and unloading area is considered to be a storage area. Please include process code “S1” in Unit Specific Form, and the total capacity of this unit is 14,400 gallons (the size of 2 tanker trucks).

I.A Please provide information on operating days and hours. Also provide information on the traffic pattern and number of trucks in and out of the facility.

I.A.7 Please explain why additional waste codes for Non-RCRA wastewater is needed.

I.C Please provide facility owner and land owner information. This information may be placed in Section I.B. Also provide land owner signature and certification.

Attachments Please clearly label all attachments (i.e., Attachment 1.1A, 1.1B. etc) and cross-reference the attachments to the text in the appropriate sections. Also, please place a heading on each attachment which describes the attachment.

Please provide a wind rose and meteorological information for the area.

Attachment 1.1 On the Facility Plot Plan, please clearly delineate traffic patterns in and out of the property, and to and from the facility.

- Attachment 1.3 The legal description shows three parcels which DTSC believes is the legal description of the entire property. It's unclear how the assessor's parcel map and legal description relates to the facility. Please clearly outline the facility on the assessor's parcel map and establish the relationship to the legal description.
- II.A.3 On Page 10, it's stated that that most pickups of waste antifreeze and used oil are performed by Evergreen Environmental Services. Please clarify whether non-Evergreen driver pick up and deliver waste to the facility. If non-Evergreen drivers are used, please explain how non-Evergreen drivers gain access to facility.
- Also on Page 10, it is stated "upon arrival at the facility, the facility operator will check information on the manifest to ensure that the waste is suitable for acceptance at the facility." Please clarify the accuracy of this statement (as well as the entire acceptance procedure) as this facility is supposedly an "unmanned" facility.
- II.A.4 Please check the accuracy of the statement in regards to the facility operator checking the incoming waste and opening the drums to sample the waste since the Evergreen – Fresno facility is supposedly an "unmanned" facility.
- Please note that any transfer station waste (less than 10 days waste) placed into Containment Area #2 will be counted against Containment Area #2 permitted capacity.
- II.A.5 Please explain why truck-to-truck transfer may be necessary for wastes that are rejected by the facility. Since truck-to-truck is considered to be storage under California law, truck-to-truck transfer of waste that the facility is not permitted to accept may constitute illegal storage.
- There is a missing "#" in the first sentence of the first paragraph of this section on Page 13. "Containment Area 2" should be "Containment Area #2."
- III.A, Table 3.1 Please explain why waste codes 135 (unspecified aqueous solution) and 343 (unspecified organic liquid mixture) are applied to waste antifreeze since the wastestream is known.

Please explain why waste code 222 (oil/water separation sludge) is applied to Non-RCRA wastewaters since sludge are usually semi-solids and are not normally pumped into storage tanks.

Please clarify whether the facility accepts only empty containers that are 30 gallons or more (waste code 512) and not accept empty containers of less than 30 gallons (waste code 513).

III.A Please provide additional information on the physical properties (pH, flash point, specific gravity, etc.) of each waste stream. Also, provide the health effect of each waste stream.

Please provide a typical chemical analysis for each waste stream.

III.B Since the Evergreen – Fresno facility is an unmanned facility (no facility operator present), who will determine whether a Waste Generator's Waste Profile Worksheet (GWPW) is required, who will examine the GWPW, and who will determine whether additional sampling is required.

III.C Since the Evergreen – Fresno facility is an unmanned facility (no facility operator present) and additional sampling and analysis is conducted at the discretion of the facility operator, who will determine whether additional sampling and analysis is required.

III.C.1 Regardless of whether or not the used oil is sampled and tested for halogens prior to pick up at the generator's location, the driver shall obtain and retain a sample prior to pumping the used oil into the tanker truck. The retained sample shall be kept until testing (either at the Evergreen – Fresno facility or at another TSDF) shows that the used oil does not contain PCBs at a level of 5 ppm or greater

On Page 21, there is a typographical error. "the" should be "The."

The application states that if used oil shows halogens are present at levels above 1000 ppm, the used oil is presumed to be contaminated with a RCRA listed waste and will not be accepted at the Evergreen facility. Evergreen will contact

the generator, and the rejected material will be sent to a permitted alternate TSDf unless the rebuttable presumption is invoked or additional information is provided by the generator that the oil is not contaminated with regulated halogenated material. Please note that if the used oil was obtained from more than one source (generator) and testing shows that it contains halogens at greater than 1000 ppm, the used oil must be sent to an alternate TSDf unless rebutted by analytical testing. Obtaining additional information from the generators is not an option.

III.D DTSC is generally in agreement that used oil transfer facility such as the Evergreen – Fresno facility may rely on the receiving TSDf to test the waste to ensure it meets the receiving TSDf's acceptance criteria. Since California law provides standards for used oil, DTSC believes that the receiving TSDf's testing must not only determine the used oil meets its acceptance criteria, the testing must also determine whether waste received meets the definition of used oil. DTSC believes that specific instructions must be provided to the receiving TSDf to ensure the appropriate testing is performed in addition to the TSDf's normal waste analysis plan. In addition, after the testing has been performed, the Evergreen – Fresno facility must obtain a copy of the receiving TSDf test results to document the waste indeed did meet the definition of used oil.

III.D.1 DTSC recommends that following language be used to replace the current language in the Standardized Permit Application.

1. Used Oil

All used oil accepted at the Evergreen facility will be manifested to a permitted TSDf (in most cases EOI). EOI is a Full RCRA Permitted facility and is required to sample and test all incoming loads of oil according to the facility Waste Analysis Plan. Testing may include a flash point test, a chlorine test, a PCB test, and other quantitative and qualitative tests to determine suitability for acceptance at the TSDf. Evergreen – Fresno will provide written instructions for testing of used oil to the EOI facility or any other TSDf to which used oil is sent. The instructions shall,

at a minimum, direct the receiving TSDf to do all the following:

- (a) Take a sample for PCBs testing directly from the Evergreen – Fresno’s used oil load and test the Evergreen – Fresno’s used oil load separately from any other load.
- (b) Do not unload the truck or commingle the Evergreen - Fresno’s used oil load with any other used oil at the receiving facility until PCBs testing indicates that the Evergreen - Fresno’s load does not contain PCBs at a concentration of 2 ppm or greater.
- (c) Use EPA test method 8082 or other similar methods approved by the United States Environmental Protection Agency or DTSC to test the used oil.
- (d) Write the manifest number on the written test results for the used oil load that was tested.
- (e) Provide Evergreen - Fresno with the written test results within 24 hours after the test has been performed. The written test results shall clearly show whether or not the used oil load contains PCBs at a concentration of 2 ppm or greater.
- (f) Reject the load if the test results show that the used oil contains PCBs at a concentration of 2 ppm or greater.
- (g) Provide a signed certification, under penalty of perjury, for each set of test results, to Evergreen - Fresno stating that the receiving TSDf has followed all of Evergreen - Fresno’s written instructions for each used oil load received from Evergreen - Fresno.

If the load is rejected, Evergreen- Fresno will test, in each retained sample from each tanker truck that unloaded into the PCBs-contaminated storage tank that was subsequently emptied and transported to the receiving TSDf. If all the retained samples show less

than 5 ppm of PCBs, Evergreen - Fresno may manage the storage tank contents as used oil. If Evergreen - Fresno sends this used oil back to the same receiving TSDF that previously tested and rejected the load, Evergreen - Fresno is not required to direct the receiving TSDF to test the same load again pursuant to the above instructions.

If any retained sample is at or above the 5 ppm limit for PCBs, the entire load from the PCB-contaminated transport vehicle (i.e., tanker trailer), any waste remaining in any other transport vehicle that transported the PCB-contaminated load, and any remaining waste in the PCBs-contaminated storage tank (including any subsequent loads placed into the storage tank) shall be shipped to a facility permitted to accept PCBs-contaminated hazardous waste pursuant to all applicable requirements, including those of the Toxic Substances Control Act (TSCA, Public Law [Pub. L.] 94-469). Any transport vehicles and the storage tank that held the PCBs-contaminated hazardous waste will be decontaminated to remove all PCB residues prior to reuse. Any waste generated as a result of decontamination of the transport vehicles and storage tank shall be managed as a PCBs-contaminated waste.

Evergreen - Fresno will immediately notify DTSC of any rejected load by e-mail and in writing and provide the written test results to DTSC within seven (7) days of obtaining the test results. Evergreen - Fresno will also comply with the requirements of Health and Safety Code section 25160.6 for any rejected load.

Evergreen - Fresno will keep all documentation for PCBs testing for at least three (3) years, including but not limited to, (i) the written instructions to the receiving TSDF, (ii) the written test results provided by the receiving TSDF that show that the used oil load has been tested for PCBs, (iii) test results for retained samples that were conducted; and (iv) the certifications by the TSDF documenting that the written instructions were followed.

- IV.A.1 Please describe any automatic or manual cutoff device which will be used to prevent an overflow.
- Please provide a drawing and explanation of the manifold system used at the facility.
- On Page 31, in the Tank Integrity Inspection section, it's stated that API-653 in-service inspections were conducted on Tanks #3 and #4 on September 24, 2006 and on Tanks #1 and 2 on August 21, 2002. There is no Tank #4. All the tank inspections shown in Attachment 4.2 were performed on November 24, 2004. Additionally, the inspections were for Tanks #1B, #2, and #3. The inspection form for Tank #1A is missing.
- On Page 33, in the Hazardous Waste Container/Drum Storage section, it's stated that one drum of hazardous waste may be stored in Containment Area #1. There is no mention of drum storage in Section II.A.3, Containment Area #1 Operations. If drum storage is also conducted in Containment Area #1, please modify the text in Section II.A.3. Additional, provide a diagram showing where the drum of hazardous waste will be stored in Containment Area #1.
- IV.C Please provide the secondary containment capacity for each of the three permitted areas.
- Attachment 4.2 There is a typographical error on each of the tank inspection form. The heading "ABOVE GRAOUND STORAGE TANK" should be "ABOVE GROUND STORAGE TANK."
- Please explain whether the API-653 inspections were performed in lieu of the Tank System Integrity Assessment as required by Section 66264.191, Title 22, California Code of Regulations, or were the inspections done as part of the Tank System Integrity Assessment. The tank inspections do not appear to the meet the requirements of Section 66264.191, Title 22, California Code of Regulations. Specifically, the tank inspections do not show that the foundation and support structure have sufficient strength to maintain

the tanks in case of a seismic event. The inspection forms show an ultrasonic thickness measurement was taken on the shell and ends, but does not show the measurements themselves. There is a column in the table on the inspection form titled, "Min Now." Is this the minimum tank thickness? The inspection forms do not explain how the minimum tank thickness was determined. Without the actual ultrasonic thickness measurements, one can not determine that the tanks meet the minimum tank thickness. Each assessment must include a written statement, signed by an independent, qualified professional engineer, registered in California, in accordance with Section 66270.11(d), Title 22, California Code of Regulations, attesting that the tanks and containment system are suitably designed to achieve the requirements of Section 66264.191. Please ensure that the certification specially address Section 66264.191.

Please note that the Tank Assessment must be done for the Standardized Permit Application and must include a plan for reassessing the tank every 5 years.

Attachment 4.5

The facility certification provided in this attachment was performed in 1998 and does not address the current condition of the facility. This certification was supposed to serve three purposes: one is to certify the requirements of Section 66264.191 were met; and the other two were to certify that the requirements of Sections 66264.175 and 66264.193 were met. The certification provided serves none of these purposes. See comments on Attachment 4.2 for Section 66264.191 requirements. The facility certification does not show how the secondary containment requirements in Sections 66264.175 and 66264.193 were met. Please provide a certification showing the secondary containment requirements of Section 66264.175 and 66264.193 were met. The certification must include the drawings and calculation used to support the conclusion. The certification must include a written statement, signed by an independent, qualified professional engineer, registered in California, in accordance with Section 66270.11(d), Title 22, California Code of Regulations, attesting that secondary containment system meet the

requirements of Section 66264.175 for container storage and Section 66264.193 for tank storage. Please ensure that the certification specially address Sections 66264.175 and 66264.193, and not any generic statements such as “applicable section of Title 22”. Please note that certification is needed for Containment Area #1, Containment Area #2, and the Truck-to-Truck Transfer, Loading, and Unloading Area.

Please provide an elevations and details drawing of Containment Area #2.

- VI. Please provide the specific job titles and duties for each of the facility personnel. DTSC believes that the only Evergreen employees at the facility are the truck drivers, but Table 6.1 shows other employees. Please clarify who the facility employees are.
- VI.B Please provide a description for Proper Manifesting Guidelines training course, the OSHA 24/40-hour Hazardous Waste Operations and Emergency Response Training course, the SPCC Plan course, and the 8-hour HAZWOPER Refresher course.
- VI.C Please provide job duties for Transfer Facility Operator, Collection Driver, Vacuum Drive, and Drum Driver.
- VIII.G.2 Please state that the Emergency Coordinator has the authority to commit the resources needed to carry out the contingency plan.
- Attachment 8.1 Please provide a drawing showing the location of the emergency response equipment.
- Attachment 8.2 The evacuation routes on the drawings are barely legible. Please provide drawings which clearly show the evacuation routes.
- IX There is no closure performance standard. Closure performance standards are needed to determine whether decontamination has been effective and/or whether releases to soil which would require cleanup, if a release had occurred. In general, closure

performance standards should be non-detect or background concentrations or be health-risk based for unrestricted use of the property. Please be reminded that closure performance standards are also applicable to all equipment.

IX.E

Please provide a map showing the proposed sampling locations.

IX.G

The closure cost estimate of \$582,009.73 appears to be in error. On November 10, 2004, DTSC approved a closure cost estimate of \$77,754. Please apply the inflation factor to this cost for the years 2005, 2006, and 2007, and revise the closure cost estimate accordingly.

X

DTSC no longer accepts certification for the security plan. Please submit a copy of the security plan as part of the Standardized Permit Application.