



October 30, 2007

Ms. Vivian F. Garfein
Director, Central District
Hazardous Waste Section
Florida Department of Environmental Protection
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

Re: *Responses to DEP Warning Letter OWL-HW-E-07-027*
AERC Recycling Solutions, EPA ID No. FLD 984 262 782
Mercury Recovery Facility Permit No. 0072959-003-HO

Dear Ms Garfein,

This letter is in response to Warning Letter OWL-HW-E-07-027 dated September 20, 2007. The Warning Letter is a result of inspections conducted at AERC Recycling Solutions on May 24, 2007. The summary of potential noncompliance items contained in Warning Letter OWL-HW-E-07-027 are below and in bold italic type, followed by AERC Recycling Solutions response in regular type. Our responses are listed in the order in which they appear in the Department's WL.

a) Regulation: 40 CFR 262.40(a) - Record keeping

"A generator must keep a copy of each manifest signed in accordance with 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter." Specifically, AERC failed obtain the original manifests for manifest numbers 452559, 452565, 452547.

Corrective Action: AERC must immediately contact the final destination facility and obtain these originals.

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

AERC has received missing copies as noted in the inspection. Follow-up procedures have been put into place to verify these copies are received within the 45-day window. Disposal facilities utilized by AERC will be notified when such manifests have not been received by day 30. Follow-up will then be daily until such time as the manifest copies are received.

b) Regulation: 40 CFR 264.15 – General Inspections

The facility must comply with the inspection plan of current permit, Part II – Operating Conditions 20 (f). Specifically, AERC failed to document daily container count log since February 15, 2007.

Corrective Action: Within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with daily inspections have been properly trained.

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

AERC understands the requirements as stated in 40 CFR 264.15 and has retrained affected employees.



c) Regulation: 40 CFR 264.16(c)/265.16(c) - Personnel training

Facility personnel must take part in an annual review of their initial training. Specifically, AERC had not provided training in hazardous waste management procedures for facility personnel as specified in Part II – Operating Conditions 2.

Corrective Action: *AERC shall develop a personnel training plan and schedule training in hazardous waste management for the appropriate facility employees. In addition, within 30 days of receipt of this Warning Letter, AERC shall provide written documentation to the Department that all employees managing hazardous waste have been properly trained.*

******This violation was cited previously during the 2003 inspection.***

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

AERC has completed required training as required by 40 CFR 264.16(c) & 265.16 (c) .

d) Regulation: 40 CFR 264.35/265.35 – Container Aisle Space

Large quantity generators shall maintain adequate aisle space between containers of hazardous waste to allow for inspection of the condition and labels of the individual containers. Specifically, AERC did not provide proper aisle space for containers of hazardous waste.

Corrective Action: *AERC shall allow sufficient aisle space to allow access for regulatory personnel to inspect all containers and for the unrestricted movement of emergency fire personnel spill control equipment, and decontamination equipment in the event of an emergency.*

******This violation was cited previously, during inspections in 2000 and 2003.***

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

AERC has aggressively retrained plant operations personnel in the necessity to maintain proper container aisle space. Furthermore, container aisle space is referenced in the daily inspection log; future deficiencies if any will be noted and corrected immediately.

e) Regulation: 40 CFR 265.54(d) – Amendment of contingency plan

“The contingency plan must be reviewed and immediately amended whenever the list of emergency coordinators changes.” Specifically, AERC failed to amend the contingency plan when Heath Clark was no longer with the company.

Corrective Action: *AERC shall amend the facility contingency plan. In addition, within 30 days of receipt of Warning Letter, AERC shall submit to the Department a copy of the amended contingency plan developed. The completed plan shall be provided to the Department within 90 days of receipt of the Warning Letter.*

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

AERC has submitted an updated Contingency plan to the Department.



f) Regulation: 40 CFR 268.50(b) – Prohibition on storage of restricted wastes

“An owner/operator of a treatment, storage or disposal facility may store such wastes for up to one year...” Specifically, AERC failed to process four drums of crushed bulbs, dated 3/9/06, 4/13/06 (2), and 5/9/06, within the one year time frame as per Part I – General and Standard Conditions 32.

Corrective Action: Within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been properly trained.

Response:

AERC respectfully requests the reduction and/or suspension of the penalty amount for the following reason(s).

The Departments findings revealed a flaw in AERC’s Waste Tracking System. The system was supposed to generate a waste aging report to prevent excessive storage times. Unfortunately, this report was pulling erroneous data and not notifying operations employees of correct accumulation times. AERC dedicated time and resources to correct this issue. These containers of “Universal Waste” Crushed Lamps were processed as soon as identified and when the LSS1 unit was functioning again.

If you have any questions or wish to discuss AERC’s responses in whole or part, please feel free to contact me at (321) 952-1516.

AERC currently has a meeting scheduled with the Department on Tuesday, November 6, 2007 at 1:00 pm to review each potential noncompliance item and proposed penalty. We look forward to meeting with you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tracy DePaola', is written over a faint, larger version of the signature.

Tracy DePaola,
District Branch Manager

cc: Danielle Bentzen, FDEP
Lu Burson, FDEP
Robert Landmesser, AERC
Mark Kasper, AERC
Lindsay Landmesser, AERC

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