



TECHNICAL SOLUTIONS
NORTH AMERICA

March 21, 2011

Mr. Jim Byer
Department of Environmental Protection
Northwest District Office
160 Governmental Center
Pensacola, FL 32501-5794

RE: Veolia ES Technical Solutions, L.L.C.
342 Marpan Lane
Tallahassee, FL 32305
EPA ID# FL0000207449
Permit#: H037-82472-004

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NORTHWEST FLORIDA
DEP

Dear Mr. Byer:

This letter is being submitted in response to the Warning Letter issued by the Florida Department of Environmental Protection (DEP) to Veolia ES Technical Solutions, L.L.C. (Veolia). This letter references an inspection date of December 7, 2010; however, our records indicate that the inspection occurred on December 6, 2010.

In the warning letter, the DEP alleges a number of violations of the hazardous waste regulations and/or the Florida Mercury Recovery Facility regulations. The following outlines each alleged violation and Veolia's response to each alleged violation. The alleged violation, as contained in the Summary of Potential Violations and Areas of Concern section attached to the Warning Letter, is listed first in italics followed by the response.

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
<i>403.727(1)(c), 62-737.800(9), 264.1(b)</i>	<i>A. Outside North Storage</i>	<i>12/7/2010</i>	<i>This is an apparent violation of Specific Permit Condition 2.8, as required in 403.727(1)(c) Fl. Stat. Veolia had a pallet of fluorescent lamps and two plastic bins of HID lamps being kept outside that were not properly containerized. The fluorescent lamps had multiple boxes opened with the lamps exposed to the elements and have a</i>



			<i>possible release to the environment. The HID containers were not closed to prevent release to the environment. Veolia also had approximately six pallets of mixed universal waste being stored on paved portion of the northern storage area. The pallets had been delivered to this area by FEDEX.</i>
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Veolia acknowledges that during the inspection the items referenced above were indeed located on the paved portion of the northern storage area outside the building; however, we disagree with the characterization that this material was being “kept” or “stored” within this area.

- **Pallet of fluorescent lamps**

In the process of recycling fluorescent lamps, boxes and drums containing lamps are moved to the equipment feed station, where the lamps are removed from the packaging and placed on the in-feed conveyor belt. It is typically at this point where lamps that cannot be directly fed into the processing equipment, as delivered, are discovered. This may include lamps with excessive amounts of tape, plastic coated lamps commonly referred to as shattershield lamps, or irregular lamps with plastic brackets attached. When these lamp types make up a significant percentage of the lamps in a container, they are left in the container and the container is placed on a pallet that is periodically moved out of the processing area to a location where the lamps are either prepped for processing or repackaged for storage. If it is a small component of an incoming container, the lamps are combined with a partial container already on the pallet. On the date of the inspection, facility staff was not able to move the pallet of fluorescent lamps back to the lamp storage area and temporarily placed the pallet of lamps outside. Once accessible, the lamps were moved to the lamp storage area and the lamps were prepped for processing. All lamps contained on the pallet that was located in the northern storage area were moved into the facility and prepped for processing on the date of the inspection.

- **HID Lamps in Bins**

Upon delivery to the facility, HID lamps are received in cardboard boxes and fiber drums. These lamps are often packaged with additional packing material to prevent breakage in transport. As such, the initial step in the recycling process involves removing the lamps from the packaging material and consolidating them into bins. The bins are then moved to the HID lamp feed station where the lamps are placed into the machine for processing. The two bins with the HID lamps referenced in the Warning Letter contained lamps that had been consolidated for processing. In order to facilitate the movement of materials within the facility, these two bins were temporarily staged outside on the paved portion of the northern storage area. These bins were subsequently moved into the facility and processed in the HID recycling equipment on the same date.

- **Universal Waste Delivered by FedEx**



FedEx Ground, a registered lamp and device transporter in Florida, delivers containers of universal waste to all Veolia facilities through Veolia's prepaid recycling program. This program greatly increases the availability of proper recycling to small quantity handlers of universal wastes throughout the US. However, due to the small volumes being shipped, these deliveries are made on package delivery trucks as opposed to full size trucks. The height of the package delivery trucks makes the unloading of the packages at the loading unsafe from a material handling perspective. As such, the materials are off-loaded in the paved portion of the northern storage area, initially segregated by material type, placed onto pallets and moved to the appropriate processing or storage area. As such, these materials are temporarily staged outdoors prior to moving them to the designated area.

The above referenced lamps were temporarily staged on the paved portion of the northern storage area, and not being "kept" or "stored" in this area. Additionally, the explanation of the potential violation indicates that these materials were exposed to the elements; however, the fluorescent lamps on the pallet and the HID lamps within the bins were intact lamps and the containers delivered by FedEx were closed containers.

Although we do not believe that a violation of the regulations has occurred, Veolia agrees it will not stage any lamps culled from the process line at the feed station or bins of HIDs outdoors in the northern storage area. However, the off-loading of FedEx delivery trucks as well as other small delivery trucks, such as those used by small quantity handlers that choose to self transport, will continue to take place on the paved area of the northern storage area. In the event of inclement weather, measures will be taken to prevent exposure of the containers to the elements.

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
262.11	A. Outside North Storage	12/7/2010	<i>It appears that Veolia failed to conduct a hazardous waste determination on a solid wastestream. Department and Agency staff observed an area of bare ground that had broken fluorescent tube pieces on it. The glass was from a 55-gallon drum that had been deemed compromised by the facility and was being moved for eventual disposal. The drum had fallen while being moved and the glass that was in the container fell out.</i>

On the date of the inspection, Linda Dunwoody was moving a drum that had previously contained broken/crushed lamps to the drum storage area for subsequent recycling or disposal. This container met the definition of a RCRA empty container, as it had been emptied using practices commonly employed to remove materials from the type of



container in question. Prior to designating the container for recycling, the facility staff emptied the lamps from the container by picking up the container and tipping to an inverted position over the lamp feed line. While moving this RCRA-empty drum to the drum storage area, Linda inadvertently dropped the drum and when it struck the ground a small amount of scale and glass was jarred loose from the interior surfaces of the container and fell to the ground. Linda was in the process of retrieving different gloves, appropriate for use in cleaning up broken glass, when the inspectors arrived on-site. With the arrival of the inspectors, Linda was not able to immediately return to the north yard to clean up the glass. The glass that did fall from the container was cleaned up within four hours of after falling on the ground and samples of soil from this location were collected and analyzed for total mercury. The analytical results were reported as 0.043 mg/kg and 0.064 mg/kg for the surface sample and a sample collected at 2" to 4" below ground surface respectively.

The 55-gallon drum in question had been determined to meet the definition of a RCRA-empty container; therefore, there was no violation of 262.11.

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
264.51(b)	A. Outside North Storage	12/7/2010	Department and Agency staff observed an area of bare ground that had broken fluorescent tube pieces on it. The glass was from a 55-gallon drum that had fallen while being moved and the glass that was in the container fell out. It appears that the facility failed to carry out immediately the provisions of the contingency plan in accordance with the Specific Condition 2.5(a) of its operating permit for the apparent release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

As previously stated, the glass that was present on the bare ground in the northern storage area was glass that had been jarred loose from the inside of a RCRA-empty container which was being moved to the empty drum storage area immediately before the arrival of the inspectors from the Department and Agency. The inspectors arrived while Linda Dunwoody was in the office getting a pair of cut resistant gloves to use in cleaning up the glass from the container that she dropped. With their arrival, Linda was not able to get the glass cleaned up immediately. However, the glass was cleaned up in a timely manner.

It is Veolia's position that a violation of 264.51(b) did not occur. In order for specific condition 2.5(a) to be applicable, the incident must result in a release of a hazardous waste or hazardous waste constituents and that release must pose a threat to human health or the environment. With respect to the glass that was spilled to the ground surface on December



7, 2010, the small volume of material and the composition of the material indicate that there was no threat to human health or the environment.

We will address later the more general question of when the implementation of the contingency plan is required. At a lamp recycling facility, the potential for small quantities of broken lamps to spill onto the floor is ever present. As such, the facility has a program in place to clean up these spills on an ongoing basis. It is not practical, nor is it consistent with the intent of the regulations, to consider each one of these events an incident requiring the implementation of the contingency plan.

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
262.34(a)(2)	A. HW Storage	12/7/2010	<i>It appears that Veolia failed to clearly mark the initial date of accumulation which is visible for inspection on each HW container. Veolia had two boxes, and one 55-gallon drum in HWS area that were labeled "Hazardous Waste" but did not have the accumulation start date on them. It appears that the 55-gallon drum missing its accumulation start date is in violation of 40 CFR 262.34(a)(2) and the two boxes missing their accumulation start dates are in violation of 268.50(a)(2)(i).</i>

The two boxes of material labeled "Hazardous Waste" were materials that had been off-loaded from an incoming trailer the morning of the inspection and the paperwork for those containers was still on the loading dock. Following the initial inspection and verification that the material matched the waste profile, the boxes were moved to the storage area. Once the balance of the load was off-loaded and inspected, the paperwork would then go into the office and inventory labels would be generated. At the time of the inspection, this step had not occurred. As these containers were in the process of being checked into inventory, no violation of the hazardous waste rules had occurred.

The 55-gallon drum that had no accumulation start date was a container of phosphor powder generated on-site on 12/3/10, from the fluorescent lamp recycling process. This container was labeled with a hazardous waste label when it was placed into service on the recycling equipment. This location is a satellite accumulation area. On Friday 12/3/10, when the container was removed from the equipment and placed into storage the employee performing this task apparently forgot to add the accumulation start date to the label. With the drum being generated on a Friday and the DEP inspection occurring the following Monday, according to Veolia records, a weekly inspection had not been conducted between the date of generation and the date of inspection. This is a critical point, as the weekly



inspection includes provisions for inspecting containers for proper labeling. One of the reasons for conducting the weekly inspection is to identify human error that may have occurred and promptly correct that error. Although this container was not dated at the time of the inspection, Veolia immediately corrected this error.

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
264.171, 403.727(1)(c), 264,173(a), 62- 737.800(9)	G. Inbound Universal Waste Storage	12/7/2010	<i>This is an apparent violation of Specific Permit Condition 2.8, as required in 403.727(1)(c) Fl Stat. Veolia had a pallet of universal waste lamps that had several open and not properly stored boxes on it. There were pieces of broken lamp on the floor in front of the pallet and on the pallet itself.</i>

The pallet of lamps in question was similar to those referenced in response to the first alleged violation. These lamps required the removal of excessive amounts of tape, plastic coatings or simply needed to be repackaged for storage. As these lamps are culled from the lamp recycling process, they are moved to the inbound universal waste storage area, where they are sorted and either prepped for recycling or repackaged for storage. The pallet of lamps referred to in this specific alleged violation was a pallet of straight tube lamps that had been duct taped length-wise by the generator. During the inspection, there were several employees actively removing the tape from these lamps and repackaging them for transfer to the lamp feed line. Whether employees are sorting lamps removing packaging material or in some cases removing lamps from fixtures, it is impossible to perform this activity without having to have the containers open. Any containers that may be opened in anticipation of being prepped for processing that cannot be done are closed and returned to storage in accordance with the facility. As such, these lamps were not being stored in violation of 62-737.800(9).

<i>Potential Violation</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
264.51(b)	G. Inbound Universal Waste Storage	12/7/2010	<i>Department and Agency staff observed one pallet in the Inbound Universal Waste Area that had several open boxes and some broken glass in front of it. The facility indicated that come containers arrive with broken lamps inside and the contents sometimes fall out in pre-process sorting. It appears the facility failed to carry out immediately the provisions of the contingency plan accordance with Specific Permit Condition 2.5(a) of its operating</i>



			<i>permit for the apparent release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.</i>
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As previously stated, in order for specific condition 2.5(a) to be applicable, the incident must result in a release of a hazardous waste or hazardous waste constituents and that release must pose a threat to human health or the environment. With respect to the glass on the floor in front of the pallet, the small volume of material and the composition of the material along with the fact that this material was inside the building on a concrete floor indicate that there was no threat to human health or the environment

This alleged violation raises the question of whether the clean up of small spills of glass within the building require the implementation of the contingency plan. Throughout the process of handling 15,000 to 25,000 lamps per day, a few containers may arrive on-site containing broken lamps which in the course of material handling may leak a small percentage of their contents. Additionally there are also occasions when material handling accidents occur and a small quantity of glass is released from the container. Because of this, Veolia has implemented procedures for the timely clean up of these small spills that occur within the lamp storage building on an ongoing basis; Veolia also conducts periodic cleaning of the facility. It is not practical, nor is it required under applicable regulations, to implement the contingency plan when these events occur.

<i>Area of Concern</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
62-737	K. Records	12/7/2010	<i>It appears that Veolia had Week 43 and Week 45 reclamation rate samples of post-retort phosphor powder that were invalid. The reason for the invalid test samples is due to the preservative (ice) melting in transit to the testing facility. Veolia was unable to test a resample of the post-retort phosphor powder because the material had already been shipped off-site.</i>

Veolia currently utilizes Test America, a Florida certified laboratory, for the testing of quality control samples. A representative of Test America picks up the samples from the Tallahassee facility and transports them to their Tallahassee laboratory. From there, Test America forwards the samples to their Nashville laboratory for testing. Hence, as a practical matter, Test America is in control of the samples once they leave the Veolia facility. In order to assure no repeat of the problems associated with the two referenced shipments, we have contacted Test America to review the sample shipping procedures in order to assure that all samples are properly preserved prior to analysis.



<i>Area of Concern</i>			
<i>Rule Number</i>	<i>Area</i>	<i>Date Cited</i>	<i>Explanation</i>
62-730.160(6)	K. Records	12/7/2010	<i>It appears that Veolia was performing weekly inspections using a checklist that had all required information except the time of the inspection. Veolia was using a Department approved checklist for this task.</i>

Veolia has now implemented a procedure where the inspector is noting the time of inspection on the current inspection checklist. A new checklist is being developed as part of the facility's renewal application.

Veolia ES Technical Solutions is committed to operating all its facilities in full compliance with permits and regulations and looks forward to working with the department to address the items identified during the most recent inspection.

If you have any questions, or would like to discuss these issues further, please call me at 850-877-8299 or Wayne Bulsiewicz at 602-233-2955.

Thank you for your consideration of these points.

Sincerely,

VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.

Linda Dunwoody
Operations Manager

Cc: Wayne Bulsiewicz
Phillip Ditter
John McShane
Greig Siedor