



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SEP 20 2013

Mr. Timothy Bahr
Administrator
Hazardous Waste Program
Florida Department of Environmental Protection
600 Blair Stone Road
Tallahassee, Florida 32399-2400

SUBJ: RCRA Compliance Evaluation Inspection
Lightning Resources, LLC
EPA ID. No.: FLR 000 070 565

Dear Mr. Bahr:

On April 25, 2013, a Compliance Evaluation Inspection (CEI) was conducted by the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection (FDEP) at the Lightning Resources, LLC facility in Ocala, Florida to determine the facility's compliance status with the Resource Conservation and Recovery Act (RCRA). This RCRA CEI was an EPA-lead inspection.

Enclosed is the EPA RCRA Inspection Report which indicates that potential violations of RCRA were discovered during the inspection. Pursuant to the current RCRA Enforcement Response Policy, the EPA has been determined the facility to be a Significant Non-Complier (SNC), and plans to initiate enforcement pursuant to 3008(a) of RCRA.

If you have any questions regarding this matter, please contact Héctor M. Danois, of my staff, by telephone at (404) 562-8556 or by email at danois.hector@epa.gov.

Sincerely,

Larry Lamberth
Chief, South Enforcement and Compliance Section
RCRA and OPA Enforcement
and Compliance Branch

Enclosures

RECEIVED
SEP 26 2013
DEF Central District



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JK

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

SEP 20 2013

Bonnie Bishop-Clark
Southeast Branch Manager
Lightning Resources, LLC
1007 SW 16th Lane
Ocala, Florida 34474

RECEIVED
SEP 26 2013
DEF Central District

SUBJ: RCRA Compliance Evaluation Inspection
Lightning Resources, LLC
EPA ID. No.: FLR 000 070 565

Dear Mrs. Bishop-Clark:

On April 25, 2013, a Compliance Evaluation Inspection (CEI) was conducted by the U.S. Environmental Protection Agency and the Florida Department of Environmental Protection (FDEP) at the Lightning Resources, LLC facility in Ocala, Florida to determine the facility's compliance status with the Resource Conservation and Recovery Act (RCRA). This RCRA CEI was an EPA-lead inspection.

Enclosed is the EPA RCRA Site Inspection Report which indicates that deficiencies of RCRA regulations were discovered. A copy of this report has also been forwarded to FDEP.

If you have any questions regarding this matter, please contact Héctor M. Danois, of my staff, by telephone at (404) 562-8556 or by email at danois.hector@epa.gov.

Sincerely,

Larry Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement
and Compliance Branch

Enclosure

cc: Janine Kramer, FDEP Central District
Tim Bahr, FDEP Tallahassee

RCRA Inspection Report

1) Inspector and Author of Report

Héctor M. Danois
Environmental Engineer
RCRA Enforcement and Compliance Branch
EPA Region 4, AFC - 10th Floor
61 Forsyth Street
Atlanta, Georgia 30303
(404) 562 - 8556

2) Facility Information

Lightning Resources, LLC
1007 SW 16th Lane
Ocala, Florida 34474
EPA ID. No.: FLR 000 070 565

3) Responsible Official

Bonnie Bishop-Clark, Southeast Branch Manager
Lightning Resources, LLC

4) Inspection Participants

Anthony McDonald	Lightning Resources, LLC
Terry Sutton	Lightning Resources, LLC
Janine Kramer	FDEP
Héctor M. Danois	U.S. EPA Region 4

5) Date of Inspection

April 24, 2013

RECEIVED
SEP 23 2013
DEF. Counsel District

6) Applicable Regulations

RCRA Sections 3005 and 3007
40 Code of Federal Regulations (C.F.R.) Parts 260 - 266, 268, 270 and 273
Chapters 403 & 378, F.S., and Chapters 62-710, 62-730, and 62-737 Florida Administrative Code (F.A.C.)

7) Purpose of Inspection

The purpose of the inspection was to conduct an unannounced U.S. Environmental Protection Agency Compliance Evaluation Inspection (CEI) and determine the facility's compliance status with the Resource Conservation and Recovery Act (RCRA).

8) Facility Description

Lighting Resources (LR) operates a mercury recovery facility to process mercury containing lamps. LR obtained a RCRA Permit (0309339-HO-001) issued on July 6, 2012, and that expires July 6, 2017. LR notified FDEP as a transporter and large quantity handler of universal waste lamps and devices. The facility began operations at this location on July 11, 2012.

The facility operates five days a week with two shifts with a 4-hour overlap between the two shifts with 19 employees. LR is connected to City of Ocala drinking water and sanitary sewer services.

9) History of Compliance

On August 2012, FDEP conducted an inspection at the facility. The facility failed to meet permit conditions by not maintaining the log documenting of the 12 week rolling average, not having the proper signage and not documenting weekly inspections. Additionally, LR was advised to ensure employees had the proper training and that hazardous waste from outside entities could not be stored on site for more than 24 hours. The facility corrected the deficiencies and no further action was taken.

10) Findings

On April 24, 2013, Héctor M. Danois with the EPA, along with Janine Kramer with Florida Department of Environmental Protection (FDEP), arrived at the facility. At approximately 9:40 a.m., Mr. Anthony McDonald and Mr. Terry Sutton, Consultant, received the inspectors. The inspectors introduced themselves, showed their credentials and explained the purpose of the visit. The following areas were inspected:

Warehouse Area

This is the area where LR stores the spent lamp in multiple size containers. The containers are unloaded and placed in the counting area where, the number of containers described on the shipping papers are verified with the number of containers delivered by the trucking company. The warehouse is divided into 10 rows where the containers are stored before processing. This is done usually within 72 hours.

Containers on the same shipping paper are kept together in pallets or sometimes shrink wrapped together for better tracking. A copy of the shipping paper is kept with the containers. A written log is maintained by personnel identifying the shipping paper number, the generator of the waste, the date the waste arrived on-site, and the date the waste was verified. Once the waste is compared to the bill of lading or manifest and verified, the pallets are placed in one of the 10 rows. Rows 1-9 store whole bulbs and row 10 is used for crushed bulbs.

At the time of the inspection, three employees were sorting boxes of compact fluorescent light bulbs (CFL) and removing them from their packaging (Figure 1). The inspection team noticed that while employees were sorting the CFL, they were causing the breakage of the lamps.

Pursuant to F.A.C. 62-730.185(1) - Standards for Universal Waste Management, the Department adopts by reference 40 C.F.R. Part 273 revised as of July 1, 2008. LR is in apparent violation of F.A.C. 62-737.400(5) (40 C.F.R. § 273.33(d). This regulation requires a large quantity handler of universal waste must manage lamps in a way that prevents releases of any universal waste or component of a universal waste to the environment.

While walking through the container storage area, the inspectors noticed the following:

- Some containers of fluorescent bulbs were observed unlabeled (Figures 2 and 3).
- Four 55-gallon drums of "wet" crushed bulbs were noted in Row 10. According to Mr. McDonald, wet-crushed-bulbs tend to clog the processor. LR sends the wet material to a sister facility in Indiana. None of these drums were over the year storage time.
- Inspectors noticed some crush glass on top of containers in Row 10 (Figure 4).
- Several boxes of projection lamps were found in Row 1. According to Mr. McDonald the projection lamps need some dismantling prior to processing, so employees work on them as they can. None of the boxes had been stored greater than one year.
- On some containers, LR uses plastic wraps instead of a lid. These lids don't seal or prevent spillage and they are considered open containers (Figure 5).

Pursuant to F.A.C. 62-730.185(1) - Standards for Universal Waste Management, the Department adopts by reference 40 C.F.R. Part 273 revised as of July 1, 2008. LR is in apparent violation of F.A.C. 62-737.400(5)(b)(1) (40 C.F.R. § 273.34(e)). This regulation requires a large quantity handler of universal waste mark or label clearly each lamp, or container or package in which such lamps are contained with any one of the following phrases: "Universal Waste—Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

LR failed to adhere to a condition for exemption from F.A.C. Chapter 62-730 [40 C.F.R. §§ 264.31 and 265.31]. This regulation require owners and operators of hazardous waste management facilities to maintain and operate their facilities to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

A hazardous waste storage area is located near the loading dock, across the spent lamp container storage area. The area is marked with yellow tape. At the time of the inspection, LR had one 55-gallon drum of hazardous waste storing floor sweepings. The drum was labeled and dated.

The universal waste batteries storage area is located on the back wall of the warehouse. The batteries (Lead Acid, Lithium, Alkaline, Nickel-Cadmium and Nickel Metal Hydride) are sorted and placed into 55-gallon drums. At the time of the inspection, the area was storing five 55-gallon drums (See Figure 6). The inspection team noticed that one of the 55-gallon drums was not labeled. In addition, near the battery storage area, a pallet of seven 5-gallon buckets and a cart with two boxes and a 5-gallon bucket, all storing batteries were not labeled (See Figure 7 and 8).

Pursuant to F.A.C. 62-730.185(1) - Standards for Universal Waste Management, the Department adopts by reference 40 C.F.R. Part 273 revised as of July 1, 2008. Therefore, LR is in apparent violation of F.A.C. 62-730.185(1) [40 C.F.R. § 273.14(a)]. This regulation requires that universal waste lamps or a container or package in which such lamps are contained must be labeled or marked clearly with any one of the following phrases: "Universal Waste—Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies)."

Processing Room

This is the area where LR processes the mercury lamps. LR uses a Balcan MP8000 lamp processor that is located inside a room with an air filtering system and negative pressure. The processor separates the glass, end caps and phosphor powder from mercury containing lamp, operating all day during each business day.

The lamps are fed into the processor on a conveyor belt and pass through crushers. Phosphor powder is continuously pulled out of the system by air handlers. Glass and metal end caps are separated and fall out into separate containers. Lamps are processed by type with one side of the machine handling long tubes and the other side processing crushed lamps, HID lamps, CFLs, and other miscellaneous lamps. Plastic shields are removed from bulbs prior to processing in the warehouse. Currently, end caps are recycled and glass is sent to the landfill; however, LR is in the process of arranging for the glass to be used at American Cement in Sumterville, FL. Phosphor powder is sent to an LRL facility in Indiana for retorting.

At the time of the inspection, employees were processing bulbs. The processor has two 55-gallon satellite accumulation area (SAA) drums. The drums were labeled. Air filters for the room are changed once a week and disposed of as hazardous waste. Filters inside the processor have not been changed since installation of the equipment. PPE from employees is disposed of as hazardous waste. At the time of the inspection, the processing room was storing four 55-gallon drums of phosphor powder. All of the drums were labeled and dated (4/18/13, 4/16/13, 4/18/13 and 4/22/13).

Process Glass Storage Warehouse

This is the area where LR stores the process glass. At the time of the inspection, the area was storing four cubic yard bags of crushed processed glass and two cubic yard bags of metal end caps. In addition, the warehouse contained over pack drums, new buckets and shipping containers. The FDEP inspector collected two samples of crushed processed glass from the two cubic yard bags. Both sample results indicate the glass is non-hazardous.

Recordkeeping

Documents and records that the inspection team reviewed included: weekly inspections, manifests (2012 and 2013), emergency plan, 12 month rolling average, personnel hazardous waste management training documentation and certificates.

Manifest:

LR's permit allows a maximum storage of 15 55-gallon drums of phosphor powder on site. Manifests reviewed during the inspection show that the facility exceeded the storage limit on four separate occasions: November 2012, December 2012, January 2013, and March 2013.

LR is in apparent violation of Permit Condition-Part II (B)(3)- Specific Operating Conditions, which requires that the maximum volume of phosphor powder in storage exceed 11,250 pounds or 15 55-gallon drums.

LR's permit allows maximum storing of two 55-gallon drums of mercury containing devices on site. Manifests reviewed during the inspection show that the facility exceeded the storage limit on six occasions; November 2012, December 2012, January 2013, and twice in February 2013 and April 2013.

LR is in apparent violation of Permit Condition-Part II (B)(3)- Specific Operating Conditions, which requires that the maximum volume is two 55-gallon drums of mercury containing devices on site.

Manifest showed that in March 2013, LR received ten 55-gallon drums of contaminated crushed glass from Costa Rica. The drums were shipped as a D009 hazardous waste. LR staff explained that the glass was from a mercury processor in Costa Rica that could not remove enough mercury to deem it non-hazardous waste and had to ship it off site for additional processing. The transporter was Freeport and the designated facility was the sister facility in Indiana (IND000351387).

LR is in apparent violation of 40 C.F.R. § 264.12(a)(1). This regulation requires the owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the Regional Administrator in writing at least four weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

Additionally, LR is not a registered 10-day transfer facility; therefore, hazardous waste is only allowed to remain on site for only 24 hours.

F.A.C. 62-730.171 (2)(a) requires the transporter who is owner or operator of a transfer facility which stores manifested shipments of hazardous waste for more than 24 hours but 10 days or less (hereinafter referred to as "the transfer facility") shall obtain an EPA/DEP identification number for each transfer facility location and notify the Department using Form 62-730.900(1)(b), "8700-12FL – Florida Notification of Regulated Waste Activity," effective date January 4, 2009 [adopted by reference in paragraph 62-730.150(2)(a), F.A.C.].

Training:

Training records were reviewed for Heath Clark, Aaron Campbell, Anthony McDonald, Jim Miller, Roderick Richardson and Bonnie Bishop-Clark. Permit condition requires that employees should have received either a 24 or 40 hours OSHA HAZWOPER. The inspection team

reviewing training documentation found it was difficult to determine if employees had received the required training. According to Ms. Bishop-Clark, employees watch video tapes to fulfill the 24/40 HAZWOPER requirement; however, documentation indicated employees completed the training in two days.

LR is in apparent violation of Permit Condition-Part II (A)(3)- Specific Operating Conditions. This permit condition requires the facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part, as required in F.S. 403.727(1)(c)(40 C.F.R. § 264.16(a)(1).

In addition, the inspection team noticed that Mr. Anthony McDonald, Warehouse Foreman, had not received RCRA training since July 2011 and no training documentation was available for Jason Sims, who was listed as the third person in contingency plan as a emergency contact. In addition, the position descriptions were missing the type and frequency of training.

LR is in apparent violation of Permit Condition-Part II (A)(3)- Specific Operating Conditions. This permit condition requires the facility personnel to take part in an annual review of hazardous waste management training, as specified in 40 C.F.R. § 265.16(c). Specifically, LR had not provided annual training for Mr. Anthony McDonald or Jason Sims.

LR is in apparent violation of F.S. 403.727(1)(a)(40 C.F.R. § 265.16(c)). This regulation requires that a written job description for each position listed under paragraph (d)(1) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position as well as the amount of both introductory and continuing training that will be give to each person filling a position.

Weekly inspections:

LR started conducting and login weekly inspections in October 2012. The inspection team noticed that the weekly inspection records were done using a word processor and that several weekly logs had future dates, times and already completed. In addition, the inspections did not have the signature of the inspector.

LR is in apparent violation of F.S. 403.727(1)(e). This regulation states that it is unlawful for any hazardous waste generator, transporter, or facility owner or operator to knowingly make any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to the provisions of this act.

LR is in apparent violation of 40 C.F.R. § 265.15(d). This regulation requires owners and operators must record inspections in an inspection log or summary. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions

Contingency Plan:

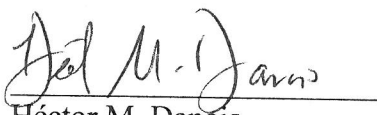
The contingency plan (4/12) listed a former employee as the third emergency contact. An updated contingency plan needs to list a current employee and a copy of this updated contingency plan needs to be sent to the local authorities.

LR has failed to adhere to a condition for exemption from RCRA § 3005 given in F.S. 403.727(1)(c)[40 C.F.R. § 265.52(d)], as incorporated by 40 C.F.R. § 262.34(a)(4). This regulation requires the facility to list (in the contingency plan) the names, addresses and phone numbers of emergency coordinators. As such, the facility is in apparent violation of RCRA § 3005.

Sampling:

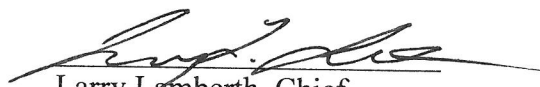
The 12 month rolling average on mercury levels in the crushed glass were in compliance. Although the permit requires samples be taken for testing after three consecutive days of operation, RCRA Permitting in Tallahassee has allowed LR to sample twice a week. LR is in the process of modifying the permit to reflect this change in sampling.

11) Signed


Héctor M. Danois
Environmental Engineer

7-9-13
Date

12) Concurrence


Larry Lamberth, Chief
South Enforcement and Compliance Section
RCRA and OPA Enforcement and Compliance Branch

09/20/13
Date

Attachment 1 – Photo Log

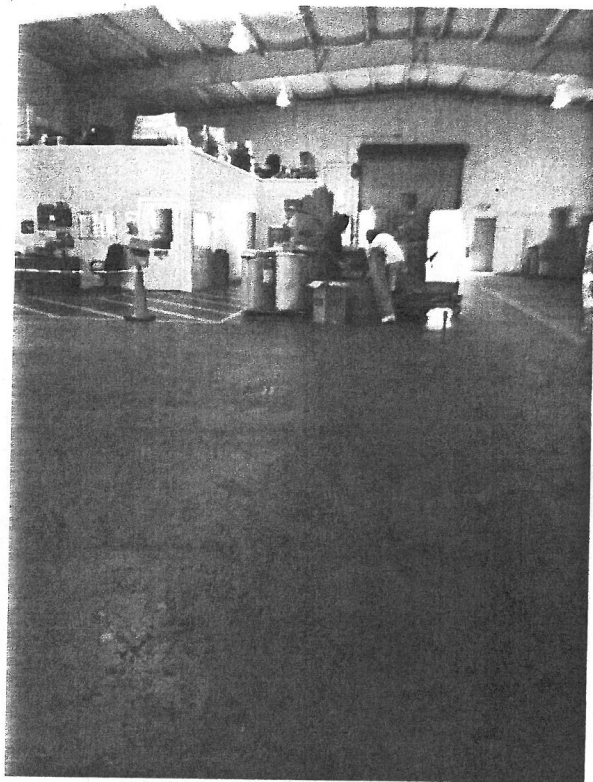


Figure 1 – Box of broken bulbs from repackaging labor



Figure 2 - Unlabeled lamp boxes

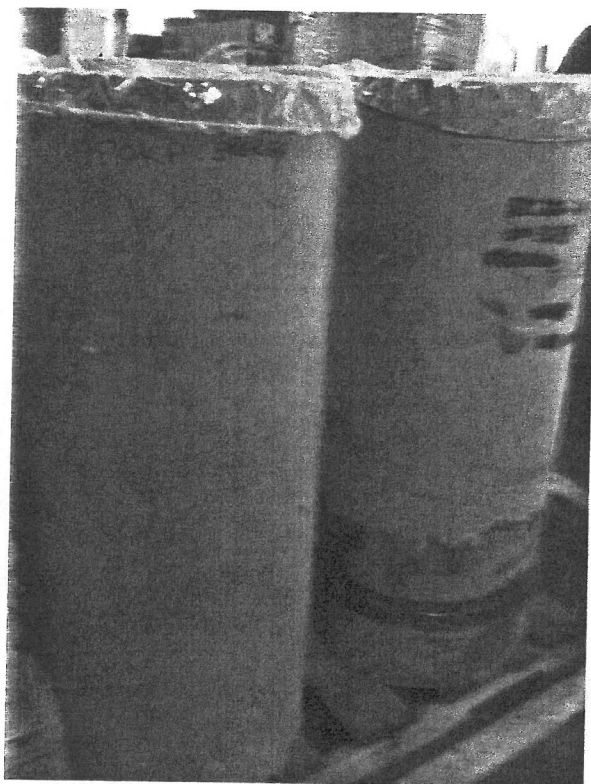


Figure 5 – Photo showing plastic cover

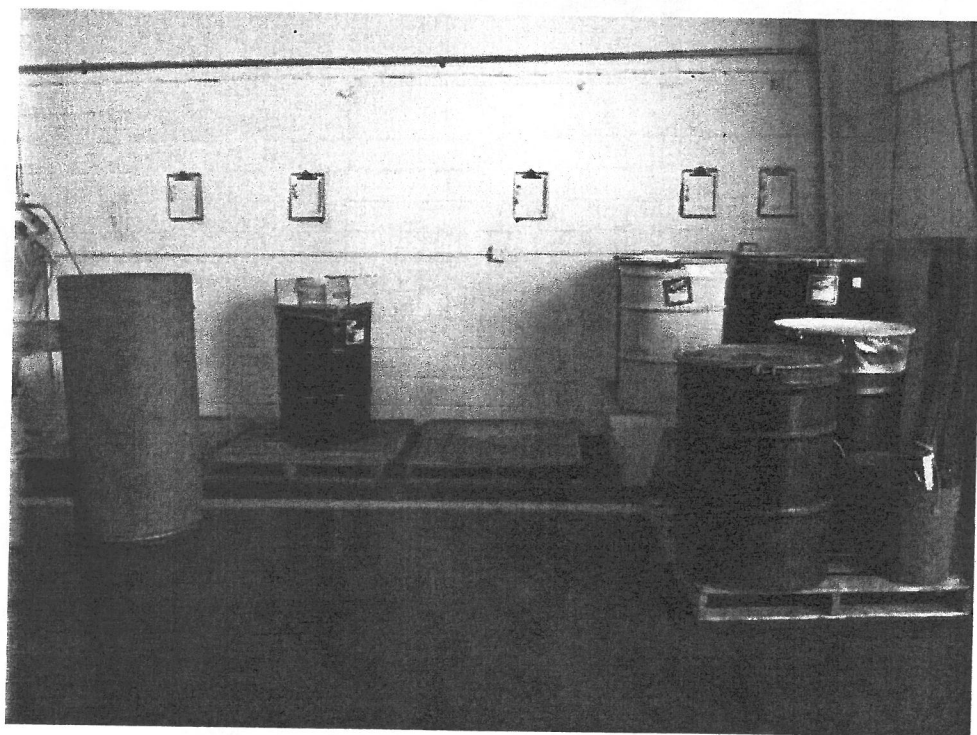


Figure 6 – Drums storing universal waste batteries