



Florida Department of Environmental Protection

Southeast District Office
400 N. Congress Avenue, Suite 200
West Palm Beach, FL 33401-2913
561-681-6600

Rick Scott
Governor

Jennifer Carroll
Lt. Governor

Herschel T. Vinyard Jr.
Secretary

February 21, 2012

VIA ELECTRONIC MAIL: Biowastetranspor@bellsouth.net

Mr. Doug Lopez, Owner
Biowaste LLC
1869 SW Bellevue Ave.
Port Saint Lucie, Florida 34953

**Hazardous Waste
St. Lucie County**

**Re: Non-Compliance Letter
Biowaste LLC, 1869 SW Bellevue Avenue, Port Saint Lucie, Florida 34953
EPA/DEP ID: FLR 000163295**

Dear Mr. Lopez:

The purpose of this letter is to advise you of possible violations of law for which you may be responsible and to seek your cooperation in resolving the matter. A hazardous waste compliance evaluation inspection conducted on June 30, 2011, and subsequent records review, indicate that violations of Florida Statutes and Rules existed at your facility. The attached Hazardous Waste Inspection Report describes the observations and findings of Florida Department of Environmental Protection (DEP) personnel; the "New Potential Violations and Areas of Concern" section of the report lists the alleged violations. Be advised that this is a revised report which includes the information collected to date in the investigation of this matter; this report replaces that which was issued via email September 13, 2011.

Section 403.727, Florida Statutes, provides that it is a violation to fail to comply with rules adopted by the DEP. The activities observed during the DEP's field inspection and any other activities at your facility that may be contributing to violations of Florida Statutes or Rules should be ceased.

PLEASE BE ADVISED that this Non-Compliance Letter is part of an agency investigation preliminary to agency action within the meaning of Section 120.57(5), Florida Statutes. It is the DEP's intention to allow you to document compliance or corrective actions, so that this matter can be closed promptly without further enforcement. Your failure to respond in writing within 30 days of receipt of this Non-Compliance Letter may result in the initiation of formal enforcement proceedings. Your written response should either describe what you have done to comply with the requests made in the attached Hazardous Waste Inspection Report, or

Mr. Doug Lopez

Page 2 of 2

provide evidence to support a claim that the violations did not occur. It is DEP's understanding that Biowaste LLC has ceased transporting hazardous waste in violation of State and Federal rules; therefore, it is requested that Biowaste LLC provide a description of any implemented or proposed efforts to prevent noncompliance with the cited violations in the future.

Please address your response to Greg Whitaker, at Gregory.Whitaker@dep.state.fl.us or at the letterhead address. If you have any questions, you may contact Mr. Whitaker at 561.681.6728. We look forward to your cooperation in completing the investigation and resolving this matter.

Sincerely,



Karen Kantor, PG
Environmental Manager
Hazardous Waste Compliance/Enforcement

KK/gw

Attachment: Hazardous Waste Inspection Report dated June 30, 2011

cc: Electronic Archboard/OCULUS
Wendy Duncombe, PBCHD (Wendy_Duncombe@doh.state.fl.us)



**Florida Department of
Environmental Protection
Hazardous Waste Inspection Report**

FACILITY INFORMATION:

Facility Name: Biowaste LLC

On-Site Inspection Start Date: 06/30/2011

On-Site Inspection End Date: 06/30/2011

ME ID#: 92768

EPA ID#: FLR000163295

Facility Street Address: 1869 SW Bellevue Ave, Port Saint Lucie, Florida 34953-1036

Contact Mailing Address: 1869 SW Bellevue Ave, Port Saint Lucie, Florida 34953-1036

County Name: St. Lucie

Contact Phone: (772) 340-7339

NOTIFIED AS:

CESQG (<100 kg/month)

INSPECTION TYPE:

Complaint Inspection for CESQG (<100 kg/month) facility

Complaint Inspection for Universal Waste Transporter facility

INSPECTION PARTICIPANTS:

Principal Inspector: Gregory S. Whitaker, Inspector

Other Participants: Bridjette Bucell, Inspector; Doug Lopez, Owner

LATITUDE / LONGITUDE: Lat 27° 17' 33.8601" / Long 80° 24' 17.1392"

SIC CODE: 4212 - Trans. & utilities - local trucking, without storage

TYPE OF OWNERSHIP: Private

Introduction:

The Palm Beach County Health Department (PBCoHD) and the Florida Department of Environmental Protection (FDEP) conducted a hazardous waste compliance inspection at Biowaste LLC (Biowaste) on June 30, 2011. Biowaste is a business which provides biomedical and universal pharmaceutical waste pick up for transport to facilities licensed or permitted to receive waste. The facility's main office is located in the owner's home office (1869 SW Bellevue Avenue, Port Saint Lucie, Florida 34953). The facility office is a residence of approximately 2,200 sq. ft., located in a residential neighborhood. Biowaste also leases space in a secure vacant lot operated by Affordable Tire located at 3237 Oleander Avenue, Ft. Pierce, Florida 34982, where they park two box trucks used for transport. The facility has been in business since November 2006 and is serviced by city sewer and water. Biowaste currently only has two employees in addition to the owner. The facility notified as a Conditionally Exempt Small Quantity Generator (CESQG), Universal Pharmaceutical Waste Transporter, and Small Quantity Handler of Universal Waste in January 2010.

The hazardous waste compliance inspection performed at Biowaste by FDEP on June 30, 2011 was in response to an inspection performed by the Palm Beach County Health Department at Palm Beach State College (PBSC) located at 3160 PGA Blvd., Palm Beach Gardens, Florida 33410 on May 11, 2011. PBSC is one of Biowaste's clients and when the PBCoHD reviewed a disposal manifest provided by Biowaste, it appeared that they were having problems with entering the proper information on these documents. A review of the June 3, 2011, hazardous waste complaint inspection report for PBSC indicated that PBSC notified the Department in 2000 as a CESQG of hazardous waste. However, the Department's observations of the June 3, 2011 inspection of PBSC, and review of their compliance submittals, indicated that PBSC was a Small Quantity Generator (SQG) of hazardous waste subject to the requirements of 40 CFR 262.34. Records indicated that Biowaste was the entity that transported the photographic wastes from PBSC. At the time of the Biowaste inspection, no UPW were observed and the facility representative did not provide any documentation indicating that Biowaste was transporting UPW from PBSC. Biowaste was not a

Inspection Date: 06/30/2011

registered transporter of hazardous waste.

Process Description:

Inspection Observations:

Biowaste has two 16 foot box trucks used for transport; however, only one was available for the inspection. Biohazard placards were observed on the outside of the truck and the facility representative indicated that both trucks are equipped with fire extinguishers inside the front cabs. Records were provided during the inspection showing that Biowaste is licensed through Broward County as a waste transporter and has commercial general liability insurance as a transporter of bio medical, universal and hazardous waste.

At the time of the June 30, 2011 inspection, the facility representative indicated that PBSC was the only client that contracted Biowaste to transport non-medical waste and PBSC was registered as a CESQG of hazardous waste. Liquid silver fixer (D011) and developer are picked up from the college's photo laboratory approximately once a month. Manifests, dated October 4, 2010 and February 9, 2011, completed by Biowaste for the college, had incorrect total quantities (Section 13) and unit weight (Section 14) information. The facility representative indicated that fixer and developer from the college is transferred into two 55-gallon containers located in the back of one of Biowaste's transporter box trucks where it accumulates for approximately three to four months until the drums are full and ready for disposal. It was indicated that fixer and developer waste from PBSC was picked up, monthly, accumulated in the Biowaste truck, and then transferred to a truck, which disposes of the waste at Chemical Pollution Control of Florida LLC located in Deerfield Beach, Florida. At the time of the inspection, one labeled 55-gallon container with SQG quantities of fixer waste and one labeled 55-gallon container of developer waste was observed without accumulation start dates. The facility was provided literature and advised on how to properly complete a hazardous waste manifest.

RECORDS REVIEW

Post-Inspection File Review:

PBSC and Biowaste disposal manifests were reviewed after the June 30, 2011 Biowaste inspection. The Department confirmed that PBSC disposed of liquid silver fixer waste (D011) through Biowaste on 10/04/2010 (45 gallons), 12/01/2010 (30 gallons), 02/09/2011 (30 gallons), 03/14/2011 (38 gallons), 04/06/2011 (45 gallons), and 05/10/2011 (35 gallons), totaling 223 gallons of fixer waste. On July 1, 2011, Biowaste provided the Department with a disposal manifest, dated July 1, 2011 (110 gallons) for the final disposal of the fixer waste at Chemical Pollution Control of Florida LLC, (CPC) located in Deerfield Beach, Florida. No other disposal records for waste fixer transported to CPC were provided, indicating a discrepancy of 113 gallons of fixer waste collected by Biowaste from PBSC and transported to CPC for disposal. Other deficiencies included incorrect total quantities and unit weights on six hazardous waste manifests and transporting hazardous waste from facilities generating SQG quantities of hazardous waste without being a licensed hazardous waste transporter. In addition, Biowaste itself was not operating in compliance with the requirements of a SQG while in possession of SQG-quantities of hazardous waste being accumulated from PBSC in its transport truck.

On October 26, 2011, a review of Department's records indicated that on July 1, 2011 PBSC updated their regulatory status to SQG. Also noted in PBSC's file with the Department was a correspondence dated July 21, 2011 indicating that Biowaste no longer transports their liquid fixer waste. The college now uses Clean Fuels of Florida, Inc. located in Pompano Beach, Florida, a licensed hazardous waste transporter.

New Potential Violations and Areas of Concern:

Inspection Date: 06/30/2011

Transporters Checklist

Type: Violation

Rule: 262.20(a)(1), 263.20

Question Number: 1.40

Question: Do the manifests contain at least:

Explanation: Disposal records that were obtained from the Biowaste inspection revealed that incorrect total quantities (Section 13) and unit weight (Section 14) information was included on the hazardous waste manifest. This error was discovered on six manifests dated 10/04/2020, 12/01/2010, 02/09/2011, 03/14/2011, 04/06/2011, and 05/10/2011.

Corrective Action: On July 26, 2011, the Department received from the generator facility PBSC the corrected disposal manifests. Please provide documentation that these corrected manifests were copied to the treatment, storage and disposal facility.

Checklist Independent Potential Violations and Areas of Concern

Type: Violation

Rule: 262.34(d)(4)

Explanation: One 55 gallon container of silver fixer waste located in the back of the Biowaste truck was not dated.

Corrective Action: SQGs are required to mark their containers of hazardous waste with the accumulation start date.

Type: Violation

Rule: 262.40(a)

Explanation: After the Department reviewed copies of all hazardous waste manifests where Biowaste transported fixer waste from PBSC, a discrepancy of 113 gallons of fixer waste was revealed in the quantity transported and the quantity received at the disposal facility.

Corrective Action: Please explain the 113 gallon discrepancy of fixer waste and provide the Department with disposal documentation.

Type: Violation

Rule: 265.174, 62-730.160(6)

Explanation: Weekly hazardous waste inspection logs were not provided at the time of the inspection.

Corrective Action: SQGs are required to perform and record weekly inspections of hazardous waste containers.

Type: Violation

Rule: 262.12(c), 62-730.150(2)(b)

Inspection Date: 06/30/2011

- Explanation:** Records that were reviewed after the June 2011 inspection revealed that Biowaste had provided transportation of hazardous waste in quantities exceeding 100 kg per month from a facility which was actually a SQG. This was done without the facility having notified the Department of its change in status to Hazardous Waste Transporter, and without meeting the requirements of a hazardous waste transporter pursuant to 62-730.170.
- Corrective Action:** A transporter of hazardous waste must also comply with 40 CFR Part 262, Standards for Generators of Hazardous Waste and shall not treat, store, dispose of, transport or offer for transportation hazardous waste from a generator without a EPA identification number from the Department. Biowaste must cease and desist transporting hazardous waste in violation of State and Federal rules.

Summary of Potential Violations and Areas of Concern:Potential Violations

Rule Number	Area	Date Cited	Explanation
Transporters Checklist			
262.20(a)(1), 263.20		06/30/2011	Disposal records that were obtained from the Biowaste inspection revealed that incorrect total quantities (Section 13) and unit weight (Section 14) information was included on the hazardous waste manifest. This error was discovered on six manifests dated 10/04/2020, 12/01/2010, 02/09/2011, 03/14/2011, 04/06/2011, and 05/10/2011.
Checklist Independent Violations			
262.34(d)(4)		06/30/2011	One 55 gallon container of silver fixer waste located in the back of the Biowaste truck was not dated.
262.40(a)		06/30/2011	After the Department reviewed copies of all hazardous waste manifests where Biowaste transported fixer waste from PBSC, a discrepancy of 113 gallons of fixer waste was revealed in the quantity transported and the quantity received at the disposal facility.
265.174, 62-730.160(6)		06/30/2011	Weekly hazardous waste inspection logs were not provided at the time of the inspection.
262.12(c), 62-730.150(2)(b)		06/30/2011	Records that were reviewed after the June 2011 inspection revealed that Biowaste had provided transportation of hazardous waste in quantities exceeding 100 kg per month from a facility which was actually a SQG. This was done without the facility having notified the Department of its change in status to Hazardous Waste Transporter, and without meeting the requirements of a hazardous waste transporter pursuant to 62-730.170.

Areas of Concern

No Areas of Concern

Inspection Date: 06/30/2011

Conclusion:

The manifests that were subsequently submitted to the Department revealed that Biowaste had provided transportation of hazardous waste in quantities exceeding 100 kg from a facility without being a registered hazardous waste transporter. To further investigate the matter, the Department reviewed copies of all hazardous waste manifests where Biowaste transported fixer waste from PBSC revealing discrepancies in the quantity transported and the quantity received at the disposal facility. Documentation received after the initial June 2011 inspections indicate that the facility was not in compliance at the time of the initial inspection.

Inspection Date: 06/30/2011

Signed:

A hazardous waste compliance inspection was conducted on this date, to determine your facility's compliance with applicable portions of Chapters 403 & 376, F.S., and Chapters 62-710, 62-730, 62-737, & 62-740 Florida Administrative Code (F.A.C.). Portions of the United States Environmental Protection Agency's Title 40 Code of Federal Regulations (C.F.R.) 260 - 279 have been adopted by reference in the state rules under Chapters 62-730 and 62-710, F.A.C. The above noted potential items of non-compliance were identified by the inspector(s).

This is not a formal enforcement action and may not be a complete listing of all items of non-compliance discovered during the inspection.

Gregory S. Whitaker

PRINCIPAL INSPECTOR NAME

Inspector

PRINCIPAL INSPECTOR TITLE**PRINCIPAL INSPECTOR SIGNATURE**

FDEP

ORGANIZATION

6/30/2011

DATE

Bridjette Bucell

INSPECTOR NAME

Inspector

INSPECTOR TITLE

NO SIGNATURE

INSPECTOR SIGNATURE

FDEP

ORGANIZATION

Doug Lopez

REPRESENTATIVE NAME

Owner

REPRESENTATIVE TITLE

NO SIGNATURE

REPRESENTATIVE SIGNATURE

Biowaste LLC

ORGANIZATION

NOTE: By signing this document, the Site Representative only acknowledges receipt of this Inspection Report and is not admitting to the accuracy of any of the items identified by the Department as "Potential Violations" or areas of concern.