



THE ENVIRONMENTAL QUALITY COMPANY

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December 10, 2010

Mr. James Dregne
Program Manager
Division of Waste Management
Florida Department of Environmental Protection
Southwest District Office
13051 North Telecom Parkway
Temple Terrace, FL 33637-0926

Re: Warning Letter # WL10-0061HW29SWD

Dear Mr. Dregne:

Thank you for the opportunity to address the alleged violations both in the enforcement meeting conducted on November 10, 2010 and now in writing. We take this matter very seriously and want to work with the State to resolve this issue. As a preliminary matter, EQ's Tampa facility has not changed the manner in which it operates, and the Department has routinely inspected the facility and never identified the alleged violations set forth below. I have responded to each item below.

1. DEP Allegation – At the time of the inspection, EQ was storing over 100 55-gallon drums of ignitable hazardous waste aerosols approximately 6-7 feet from the property line. In addition, the facility was storing numerous containers of ignitable hazardous waste within Bays 1 and 3 which are both located within 50 feet of the property line. Rule 264.176

Response - The rule applies to material in storage and the containers in question were in the process of being consolidated. The aerosol consolidation operation is a round the clock operation and the drums had been moved out of storage and into position for processing. The flammable drums noted in Bays 1 and 3 were also in process (being checked in/out) and were not in storage. It should also be noted that part of Bay 3 is greater than 50 feet from the property line and has a loading dock dedicated to building fuel (flammable liquid) loads. Previous modifications expanded the staging and storage area allowing material to be staged in this area for processing. This modification appears to have been omitted from the current permit and is being addressed in a meeting with Merlin Russell on 12/13/10.

Corrective Action: All aerosol can containers are being staged for processing in an area greater than 50 feet from the property line prior to consolidation.

2. **DEP Allegation** - At the time of the inspection, universal waste lamps were being stored in boxes within an open box truck. The boxes within the truck had become wet due to exposure to the weather and multiple lamps were observed to be spilling out of a box. A number of the cardboard boxes appeared to be no longer structurally sound due to the water damage. In addition, several cardboard boxes of the lamps were observed being stored on a pallet outside. The boxes were also damaged due to the exposure to the weather and numerous lamps were observed on the ground. Rule 273.33(d)(1)

Response - Several boxes lacked structural integrity as this was the condition that they were received in from the customer. The lamps were sent off site for recycling during the inspection.

Corrective Action: Lamps received in containers lacking structural integrity are re-boxed prior to being placed in storage.

3. **DEP Allegation** – At the time of the inspection, multiple hazardous waste containers were observed being stored at the facility with waste pooled on tops of the containers. Rule 264.31

Response - The noted containers had de minimus residue on the top of the drums and were not grossly contaminated. All of the containers were cleaned during the inspection. EQ feels strongly that this is not a violation and it has been addressed through enhanced measures set forth below.

Corrective Action: Containers are inspected during each shift and de minimus residues are cleaned immediately.

4. **DEP Allegation** – At the time of the inspection, cyanide bearing hazardous waste was observed being stored in the southwest end of Bay 3 (3B) in violation of permit condition S.C.II.8. Rule 403.727(1)(c)

Response – EQ has been unable to determine whether cyanide bearing material may have been inadvertently placed in the wrong bay. Without knowing the drum number we cannot confirm the finding. We have requested additional information and pictures from the Department, but so far no information has been provided.

Corrective Action: Employees have been retrained on cyanide bearing waste storage requirements.

5. **DEP Allegation** –At the time of the inspection, multiple storage containers at the facility were not marked with the date the containers were received at the facility. The containers were observed in all three bays, within at least two outbound trucks and outside. Failure to clearly mark upon receipt each container of

hazardous waste with the date the waste was received at the facility is a violation of permit conditions S.C.II.22b. Rule 268.50(a)(2)(i)

Response - Retail drums typically do not receive a bar code label which has the date of receipt because they are generally processed upon arrival at the facility and almost always within 24 hours of receipt. Any retail drum that is not processed upon arrival or within this 24 hour period receives a bar code which includes the date of receipt.

Corrective Action: All in-bound containers, including retail containers, will be marked by hand with the date of receipt as they are being off loaded. Containers that are not processed within 24 hours will receive a bar code which includes the date of receipt.

6. DEP Allegation –During the inspection, the facility's emergency/safety equipment storage cabinet located within Bay 1, was examined. EQ personnel had not inspected the contents or the condition of the contents in at least 18 months prior to inspection. A piece of paper was taped to the front of the cabinet that was dated with the last inspection date of January 7, 2009. The paper was placed over the opening so as to rip if the cabinet was opened. In accordance with Section 5 of the permit application, EQ is to inspect the facility's emergency and safety equipment daily. Rule 264.15(b)(1)

Response - The safety cabinet was initially stocked with all the required equipment and inspected to ensure compliance. The cabinet was then sealed to ensure that equipment was not removed. The daily inspection consists of inspecting the cabinet to ensure that the seal has not been broken. If the seal is broken or if the equipment was used in an emergency, the cabinet is restocked, inspected to insure compliance, and re-sealed. This method of sealing and inspecting was used based on previous guidance provided by FDEP and is a commonly accepted industry practice.

Corrective Action: The seal of the cabinet will be broken on a monthly basis and the equipment will be inventoried and inspected. If the Department has any remaining concern on this issue, we suggest this be addressed and clarified in a permit modification

7. DEP Allegation – At the time of the inspection, there was one open drum storing hazardous waste located within one of the outbound trucks. The bung had been removed and was located on top of the drum. In addition, there were at least two open cubic yard boxes storing hazardous waste aerosols located outside in the unloading area. Personnel indicated that they were "In Process", however there was no waste being added to or being removed from the containers. Rule 264.173(a)

Response - As the drum was being loaded onto the truck, it was noted that the drum had built up pressure and needed venting. The employee removed the bung to release the pressure and left the drum unattended temporarily while it vented.

The open cubic yard boxes were created in the aerosol consolidation area and have to be moved out of this area prior to being closed due to the nature of the consolidation area. The boxes were not left unattended and were closed during the inspection.

Corrective Action: Employees have been retrained that containers must always be closed during storage except when it is necessary to add or remove waste.

8. **DEP Allegation** –At the time of the inspection, multiple containers storing unknown wastes were being stored on a cart in Bay 2. Personnel indicated that wastes were placed on the cart because they were unknown or had a reaction during consolidation. Some of the containers appeared to be leaking waste and most of them were not labeled as containing hazardous waste. At least one of the containers was marked with the D003 waste code. This is also a violation of permit condition S.C.II.6. Rule 264.177(c)

Response - The material on the cart was incorrectly characterized as an unknown material to the inspector. If improperly packaged material is identified during the course of the lab pack de-pack process, the material is placed on the cart for further examination and classification by the Facility Chemist to ensure that the material is properly packaged for disposal. Neither 40 CFR 264.177(c) nor S.C.II.6 was violated as the container content was known and incompatible material was not stored nearby. This is a very practical and important protocol when processing lab packs.

Corrective Action: All containers placed on the cart for further examination and classification will be individually bagged and labeled "Hazardous Waste." Incompatible waste will not be stored nearby.

9. **DEP Allegation** –At the time of the inspection, EQ was staging hazardous waste in areas designated for storage by the permit. In addition, the facility was taking longer than three days to unload hazardous waste into the appropriate storage area and longer than five days to load an outbound truck. EQ was not documenting when trucks had entered, been unloaded or loaded, or had left the facility. These are all violations of permit condition S.C.II.15. Rule 403.727(1)(c)

Response - The required information can be found in EQAI (the operating log). EQAI has the ability to document the receipt date and this date can be compared to the date the in-bound manifest was signed. EQAI also has the ability of noting when the containers moved from the storage row and placed on the truck. This date can also be compared to the date the out-bound manifest was signed. This

method of tracking inbound and outbound loads has been inspected and accepted by previous inspectors.

Corrective Action: In order to produce the required information easier, and in a format that FDEP will better understand, a written log with the required information will be created and made available for inspection.

10. **DEP Allegation** –At the time of the inspection, EQ had multiple trucks on-site that were storing hazardous waste. A number of the trucks, which were open, were being parked on the ground and not on a man-made surface having emergency liquid containment, in violation of permit condition S.C.II.14. Rule 403.727(1)(c)

Response - All trucks are now parked on man-made surfaces with secondary containment.

Corrective Action: Temporary man-made secondary containment will be placed under all trucks carrying waste that must park on non man-made surfaces.

11. **DEP Allegation** –A the time of inspection, multiple containers storing hazardous waste that were loaded onto an outbound truck were observed without any labels. The containers were not placarded for transport, where not labeled as to their contents, and were not dated with the date received at the facility. Rule 262.33

Response - At the time of the inspection, the truck in question was being loaded and had not entered the transportation cycle. After the truck was fully loaded, it was properly placarded prior to being offered for transportation. Proper placarding cannot be completed until the vehicle is fully loaded as there are many variables that must to be considered when determining which placard(s) must be applied. All loaded vehicles are placarded according to DOT regulations for hazardous materials under 49 CFR part 172, subpart F before being transported or being offered for transportation.

Corrective Action: Continue placarding according to DOT regulations.

12. **DEP Allegation** –At the time of the inspection of the facility's vehicle maintenance area, one five gallon bucket located inside and one approximately 20 gallon used oil dolly located outside were observed without begin labeled with the words "Used Oil." Inside the building was a secondary containment pallet storing two 55-gallon drums. At the time of the inspection, the containment pallet was storing several inches of used oil. As the capacity of the containment pallet is over 55 gallons and as the pallet was located near a overhead door, the pallet would also require secondary containment if used to store used oil. Rule 62-710.401(6)

Response - The dolly in question is a collection container, not a storage container. After a truck is serviced, the material collected in the dolly is removed and placed into a properly labeled storage container. The dolly was located under the engine compartment and was clearly being used to collect material dripping from the truck. It would be unsafe to label a collection container "Used Oil" when that same container is used to collect other materials.

The containment pallet was not being used as a storage container of used oil. The material in the containment pallet was an accumulation of spilled material.

Corrective Action: The contents of the collection dolly will be removed in a timelier manner. The containment pallet has been cleaned and housekeeping expectations have been communicated to the responsible party.

13. **DEP Allegation** –At the time of the inspection, the facility was storing used oil filters within a 5 gallon bucket in the maintenance area. The bucket was only labeled as "Biohazard." Rule 62-710.850(5)(a)

Response - The oil filters noted during the inspection were unused oil filters and had not been used. The filters were old and not in the best of shape or appearance, but they had never been in service. EQ Florida does not handle Biohazard waste and there are no Biohazard labels available for use, which indicates that the bucket and filters had been brought in from off-site with the thought that the mechanic may have been able to use them.

Corrective Action: Used oil filters, after proper draining, are immediately placed in an appropriate and correctly labeled storage container. The filters in question had never been used and had no oil in them to drain.

14. **DEP Allegation** – At the time of the inspection, multiple containers being stored at the facility were not marked with applicable EPA waste identification codes in violation of permit condition S.C.II.22.a. Rule 403.727(1)(c)

Response – A retail load was off-loaded in the morning of the inspection. Labels are inspected for accuracy and completeness as part of the receiving process. The inspectors noted the improper labels prior to this inspection. The deficiency would have been noted and corrected as part of the inspection.

Corrective Action: Waste codes will be placed on universal pharmaceutical waste labels.

All labels will be inspected as the containers are off-loaded rather than waiting to perform the inspection after all of the containers have been off-loaded.

If the Department determines that formal enforcement action or penalties are warranted in connection with this matter, we would appreciate the Department contacting me or Ron Noble at fowler White to discuss a proposed course of action prior to the Department preparing a formal or final penalty assessment calculation. I look forward with working with you on this matter.

Sincerely,


Stuart Stapleton
EHS Manager