

Florida Department of
Environmental Protection

Memorandum

DATE: April 9, 2013

TO: Bill Burns, BSHW, DWM

TO: Brian Dougherty, BSHW

THROUGH: Lisa A. Kelley, Assistant Director

THROUGH: Gary Miller, Environmental Manager

FROM: Janine Kraemer, Environmental Consultant

RE: Peer Review Request – **Proposed Warning Letter**, AERC Com Inc, Mr. Tracy Depaola.

AERC is a as a Large Quantity Generator (LQG), transporter, universal waste generator/handler, a hazardous waste transfer facility and permitted mercury processor. The current permit, 0072959-HO-004, expires December 30, 2016

Facility Information:

- AERC Com Inc, Ms. Tracy Depaola, Facility Manager
- 4317 Fortune Pl Ste J, West Melbourne, Florida 32904-1509

Inspection Summary:

An inspection of the facility was conducted on January 24, 2013. The facility was out of compliance at the time of the inspection. Violations included failure as the designated facility to sign the manifest, failure to submit a biennial report March 1, failure to comply with the permit i.e. storage in unpermitted areas and stacking drums too high, failure to keep universal waste containers closed, and failure to obtain an EPA identification number for a facility in which AERC was a co-generator.

Proposed Warning Letter in lieu of Compliance Assistance:

In the past 10 years AERC Com, Inc has been out of compliance 5 out of 10 inspections. By definition AERC is considered a Significant Non-Complier because of their history of being out of compliance.

The District proposes to resolve the case by issuing a WL outlining the required corrective actions and assessing a penalty of \$39,459 (see attached calculation sheet). The WL will result in resolution via Consent Order.

Specific Conditions Cited:

- 40 CFR 264.71(a)(1)-If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in

the manifest discrepancy space. Specifically, AERC, as the designated facility did not sign manifest 001898414FLE.

- 40 CFR 264.75-Biennial report. The owner or operator must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA form 8700-13B. Specifically, AERC did not submit the biennial report until July.
- F.S. 403.727(1)(c), 62-737.800(9) F.A.C. and 40 CFR 264.1- Failure to comply with permit condition Part I-General and Standard Conditions. Specifically, AERC stated in their permit application that they would limit storage of drums 1 or 2 high (no higher than 9 feet). Additionally, AERC stored universal waste in an area that was reserved for supplies.

NOTE: This was cited during the 2008, 2007 and 2003 inspections.

- 62-737.800(9) F.A.C.-Owners and operators shall store processed and unprocessed materials in closed containers; and for broken or damaged unprocessed lamps and devices, and residuals, store these in closed, covered and sealed containers or in enclosed areas of the facility conforming to paragraph 62-296.417(1), F.A.C., to prevent mercury emissions. Specifically, AERC was storing bulbs in open containers and had not completely covered the roll off dumpster of glass.

NOTE: This was cited during the 2011 inspection.

- 40 CFR 262.20(a)(1)-A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22. Specifically, as a co-generator, AERC prepared three hazardous waste manifests for Southern Carolina that did not contain an EPA identification number.



Florida Department of
Environmental Protection
Hazardous Waste Inspection Report

Draft

FACILITY INFORMATION:

Facility Name: Aerc Com Inc

On-Site Inspection Start Date: 01/24/2013 **On-Site Inspection End Date:** 01/24/2013

ME ID#: 43329 **EPA ID#:** FLD984262782

Facility Street Address: 4317 Fortune Pl Ste J, West Melbourne, Florida 32904-1509

Contact Mailing Address: 4317-J Fortune Pl, W Melbourne, Florida 32904-1509

County Name: Brevard **Contact Phone:** (321) 952-1516

NOTIFIED AS:

LQG (>1000 kg/month)

Transporter

Transfer Facility

TSD Facility Unit Type(s)

INSPECTION TYPE:

Routine Inspection for TSD Facility Unit Type(s)

INSPECTION PARTICIPANTS:

Principal Inspector: Janine Kraemer, Environmental Manager

Other Participants: Michael Eckoff, Environmental Specialist; Tracy DePaola, Facility Manager

LATITUDE / LONGITUDE: Lat 28° 5' 39.5694" / Long 80° 41' 51.624"

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

TYPE OF OWNERSHIP: Private

Introduction:

On January 24, 2013 Janine Kraemer and Michael Eckoff, Florida Department of Environmental Protection (FDEP), accompanied by Tracy DePaola, AERC Recycling Solutions (AERC) inspected AERC for compliance with state and federal hazardous waste and universal waste regulations. AERC was inspected as a Large Quantity Generator (LQG), transporter, universal waste generator/handler, a hazardous waste transfer facility and a permitted mercury processing facility.

The facility has operated at this location since November 1993 and employs approximately 15-20 people who work Monday through Friday from 7:00AM to 11:00PM. City of West Melbourne provides potable water and sewer. The facility owns three trucks and leases two trucks for transportation of universal waste.

The facility was originally Mercury Technologies International (MTI) but changed its name to Advanced Environmental Recycling Company (AERC) in 2001. The initial RCRA mercury recycling permit was issued December 30, 1996. The current permit, 0072959-HO-004, expires December 30, 2016.

NOTE: The permit incorrectly identifies AERC as the property owner. The property is owned by Fortune Cookie Park Inc.

INSPECTION HISTORY

On April 20, 2011 AERC was inspected by the Department and was not in compliance at the time of the inspection. The facility was cited for failing to keep daily logs, and failure to maintain universal

waste containers closed. The facility came into compliance immediately and no further action was taken.

On December 16, 2009, AERC was inspected by the Department and found to be in compliance.

On September 11, 2008, AERC was inspected and was not in compliance at the time of the inspection. The facility was cited for: failure to provide adequate aisle space; failure to dispose of waste within 90-days; failure to have accumulation start date on containers per permit. The case was resolved by amending the Long Form Consent Order, OGC #07-2193, from the 2007 inspection. The amendment increased the amount for the Supplemental Environmental Project and a civil penalty of \$7,736.00.

On May 24, 2007, AERC was inspected and was not in compliance at the time of the inspection. The facility was cited for: failure to obtain original manifests; failure to document daily container count log; failure to provide annual training to staff; failure to provide adequate aisle space; failure to update contingency plan; failure to process crushed bulbs within the one year time frame as per permit. The case was resolved by a Long Form Consent order, which included a Supplemental Environmental Project and a civil penalty of \$750.00.

On May 16, 2006, AERC was inspected and found to be in compliance.

On January 10, 2005, AERC was inspected and found to be in compliance.

On September 30, 2004, AERC was inspected and found to be in compliance.

On September 4, 2003, AERC was inspected and was not in compliance at the time of the inspection. The facility was cited for: storage of waste over 90 days; failure to label two corrosive waste drums with accumulation start date; failure to provide adequate aisle space; failure to provide annual training to staff; incomplete contingency plan; failure to date universal waste containers; failure to keep mercury containers closed; and failure to file a manifest discrepancy report within the required time frame. The case was resolved by a Short Form Consent order, which included a Supplemental Environmental Project and a civil penalty of \$4,200.00.

On August 26, 2002, AERC was inspected and was in compliance at the time of the inspection.

On March 15, 2001, Mercury Technologies International changed their name to AERC. AERC was issued a permit on December 3, 2001. Additionally, the facility was inspected and was in compliance at the time of the inspection.

On July 28, 2000, MTI was inspected and was not in compliance at the time of the inspection. The facility was cited for failure to label universal waste containers and failure to have adequate aisle space for containers. The case was resolved by a Short Form Consent Order and a civil penalty of \$1,300.00.

On September 24, 1999, MTI was inspected and was in compliance at the time of the inspection.

Process Description:

The facility receives spent mercury containing bulbs and devices for the purpose of crushing or dismantling and separating the lamps or devices in a manner as to produce separated individual recyclable components such as glass, scrap metal and mercury containing powder (phosphor powder). A lamp recycler (LSS-1) separates the end caps, glass, shatter shields, and filaments from the phosphor powder. The metal and phosphor powder is sent to a sister company in Pennsylvania for thermal retort. At times when the LSS-1 is not working properly, the glass is put through the machine twice and then sent off to the Brevard County landfill. Samples are taken daily of the glass and end caps. Those samples are then composited and sent for testing.

The facility cannot process lamps or devices containing liquid mercury. Items containing liquid mercury are consolidated and sent to the Pennsylvania facility.

The air filtering unit for the LSS-1 contains three sets of air filters pre-filters, HEPA-filters, and carbon filters. The filters are monitored on a regular basis and when the levels of mercury reach a certain level, the filters are changed. The Pre-Filters have been tested and determined to be nonhazardous. The HEPA-filters and carbon filters are disposed of as hazardous waste.

High Intensity Discharge (HID) lamps are dismantled in order to remove mercury containing ampoules from the bases. The consolidated ampoules are sent to the Pennsylvania facility.

The facility is also a universal waste handler. All types of batteries are brought to the facility then sorted and consolidated into 55-gallon drums or onto pallets. The batteries are shipped off-site for reclamation.

AERC accepts PCB and non-PCB lighting ballasts for sorting and shipment to other recycling facilities, as well as electronic scrap for demanufacturing or remanufacturing. Most electronics are managed at AERC's facility located at 4301 Woodland Park Drive, Suite 105, West Melbourne, Florida.

AERC also operates a 10-day transfer facility for hazardous waste destined for the AERC Pennsylvania TSD facility.

INSPECTION**90-Day Storage Area, Mercury Containing Devices and 10-day Transfer Area:**

This area is for containers of mercury containing devices (ie. glassware, elemental mercury, soil, amalgam, etc.) that only have the D009 waste code. These wastes are consolidated and sent to the Pennsylvania facility for final disposal. The date of the oldest container is placed on the drum after the contents are consolidated. At the time of the inspection the facility had two drums in the 90-day storage. Both drums were labeled and dated properly.

The 10-day transfer area contains wastes received with the D009 code plus additional waste codes. These wastes are transferred to the Pennsylvania facility within 10-days of receipt. At the time of the inspection the facility was not storing any 10-day waste.

At the time of the inspection the facility was storing nine 55-gallon drums of mercury containing devices that were labeled and dated properly. The waste in these drums were from consolidating customer waste. The oldest date is used to date the drums.

Bulb Storage Area:

At the time of the inspection the facility was storing containers of crushed/whole bulbs waiting to be processed in four rows (Figures 1, 4-5). Approximately one-hundred and forty-five 55-gallon drums were stored on pallets three high. This is a violation of the permit as referenced in Permit Application, Item D.8 Quality Control Plan, page 17, which states drums will be stacked one or two high, (less than 9 feet) [F.S. 403.727(1)(c)/62-737.800(9) F.A.C./40 CFR 264.1(b)].

Battery Storage Area:

At the time of the inspection approximately one third of the warehouse was being used for waste batteries managed as universal waste. Batteries are sorted and consolidated by type. Three drums were being used for satellite accumulation of oils, sodium hydroxide, and sulfuric acid. All drums were closed and properly labeled.

Production Area:

LSS-1 was not operating at the time of the inspection. Lamps coated in a plastic shatter shield are sorted and stored separately from regular lamps because of the plastic. At the time of the inspection, there were three open containers waiting for the shatter shield to be removed [62-737.800(9) F.A.C.] (Figure 2). The shatter shield is manually removed from the lamps prior to crushing. At the time of the inspection, the processing area contained a large amount of electronic waste and four 55-gallon drums of crushed lamps. Please be advised that adequate aisle space must be maintained to allow unobstructed access to personnel and fire protection equipment.

HID lamps are sorted, mercury ampoules removed, and stored separately from regular lamps until transported to the Pennsylvania.

Outside next to the loading dock is the area for the roll off containers used to store glass from the mercury lamp processing operation. At the time of the inspection, one of the roll off (Figure 7) containers was not covered [62-737.800(9) F.A.C.].

Supply Storage Area:

This area is identified to be used for supplies, i.e. empty drums, absorbent pads, boxes, etc. and electronic waste. At the time of the inspection, ten 55-gallon drums (Figure 3) of universal waste, dated September 2012 were found stored in this area. This area is not identified in the permit as a universal waste storage area [F.S. 403.727(1)(c)/62-737.800(9) F.A.C./40 CFR 264.1(b)].

Loading Dock:

This area contained several pallets of waste that had been recently delivered to the facility (Figure 6).

According to their Permit Application, Item D.8 Quality Control Plan, page 22, office staff and visitors must wear protective dust resistant booties while inside the plant operating areas. Ms. DePaola was not wearing these booties and inspectors were not offered these booties prior to conducting the inspection.

Two samples were taken of the glass in the roll off container and sent to the Department's Laboratory for TCLP testing for mercury. Both sample results indicated the glass was not a hazardous waste.

Records Review:

Records were reviewed for 2011 and 2012. The records included inspection logs, daily container count logs, contingency plan, position descriptions, training records, land disposal restriction

Inspection Date: 01/24/2013

Draft

notifications, twelve

week rolling average of mercury levels of end caps, glass and HID bases, biennial report, and manifests.

The most recent contingency plan was dated December 21, 2011 and needs to be updated with the new Central District telephone number, 407-897-4100. Training records, position descriptions, land disposal restriction notifications, inspections, and the twelve week rolling average of mercury levels of end caps and glass were in compliance. The Biennial Report due March 1, 2012 was not submitted until July 12, 2012 [40 CFR 264.75]. AERC completed the annual universal waste registration on time.

Manifests 001898412FLE, 001898413FLE and 001898414FLE were transported by AERC from Southern Carolina, company located in South Carolina. According to Ms. DePaola, AERC was hired to clean Southern Carolina, a defunct mercury processing facility. The manifests indicated Small Quantity Generator (SQG) amounts of wastes; however, the manifests did not contain an EPA identification number. In the block on the manifest for the EPA identification, "SCCESQG" was written [40 CFR 262.20]. The person that signed the manifest as the generator was AERC employee, Michael Miliska. Additionally, manifest 00189813FLE was signed by Mr. Miliska as the generator and transporter. Manifest 00189814FLE was missing the designated facility signature [40 CFR 264.71].

The facility is using Cintas to launder shop towels. The facility is sending all of the mercury containing material, including batteries, to their Allentown, Pennsylvania facility for further processing.

Batteries are shipped to Toxoc in Ohio. Forklift batteries are shipped back to the supplier for repair.

New Potential Violations and Areas of Concern:

Violations

Type:	Violation
Rule:	264.71(a)(1)
Explanation:	If a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space. Specifically, AERC, as the designated facility did not sign manifest 001898414FLE.
Corrective Action:	Within 30 days of receipt of this letter, AERC shall submit a signed copy of the manifest.

Type:	Violation
Rule:	264.75
Explanation:	Biennial report. The owner or operator must prepare and submit a single copy of a biennial report to the Regional Administrator by March 1 of each even numbered year. The biennial report must be submitted on EPA form 8700-13B. Specifically, AERC did not submit the biennial report until July.
Corrective Action:	This corrective action was completed when the Department received the report on July 16, 2012.

Type: Violation
Rule: 403.727(1)(c)
Explanation: 62-737.800(9) and 264.1- Failure to comply with permit condition Part I-General and Standard Conditions. Specifically, AERC stated in their permit application that they would limit storage of drums 1 or 2 high (no higher than 9 feet). Additionally, AERC stored universal waste in an area that was reserved for supplies.
Corrective Action: Within 30 days of receipt of this letter, AERC needs to organize the bulb storage area so that drums are not stored three pallets high and discontinue storage in the supply storage area.

Type: Violation
Rule: 62-737.800(9)
Explanation: Owners and operators shall store processed and unprocessed materials in closed containers; and for broken or damaged unprocessed lamps and devices, and residuals, store these in closed, covered and sealed containers or in enclosed areas of the facility conforming to paragraph 62-296.417(1), F.A.C., to prevent mercury emissions. Specifically, AERC was storing bulbs in open containers and had not completely covered the roll off dumpster of glass.
Corrective Action: Within 30 days of receipt of this letter, AERC shall provide written documentation that all bulb and glass containers all closed and that employees have been trained to maintain containers closed.

Type: Violation
Rule: 262.20(a)(1)
Explanation: A generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal, or a treatment, storage, and disposal facility who offers for transport a rejected hazardous waste load, must prepare a Manifest (OMB Control number 2050-0039) on EPA Form 8700-22. Specifically, as a co-generator, AERC prepared three hazardous waste manifests for Southern Carolina that did not contain an EPA identification number.
Corrective Action: AERC must not transport SQG amounts of waste without ensuring hazardous waste manifests contain an EPA identification number.

Conclusion:

AERC was inspected as a permitted storage/mercury recovery facility, LQG of hazardous waste, and an LQH of universal waste. A discussion was held with Ms. DePaola at the end of the inspection outlining the items needing corrective action. The facility was not in compliance with their permit at the end of this inspection and copy of the permit could not be located at the facility at the time of the inspection.

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.

Janine Kraemer

PRINCIPAL INSPECTOR NAME

Environmental Manager

PRINCIPAL INSPECTOR TITLE

FDEP

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.



Figure 1: Fluorescent bulbs in boxes



Figure 2: Mercury processing area



Figure 3: Universal waste in supply storage area



Figures 4 and 5: Universal waste stacked 3 pallets high



Figure 6: Loading dock



Figure 7: Waste glass dumpster

PENALTY COMPUTATION WORKSHEET

Facility's Name: AERC Com, Inc

EPA ID #: FLD984262782

Facility Address: 4317 Fortune Pl Ste J, West Melbourne, Florida 32904-1509

Staff Responsible for Penalty Computations: Janine Kraemer

Date: 04/09/2013

Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Multi Day	Other Adjustments	Total
a. 264.71 Manifest	HW 5/2008 Line 220	Moderate	Moderate	\$11,330-7,090			\$7,090
b. 264.75 Biennial	HW 5/2008 Line 132	Minor	Moderate	\$2,130-\$710			\$710
c. 403.727(1)(c) Permit Conditions	HW 5/2008 Line 160	Major	Major	\$37,500-\$28,330			\$28,330
d. 62-737.800 Open Containers	UW 5/2008 Line 39	Minor	Major	\$1,199-\$500			\$1,199
e. 262.20(a)(1) Manifest	HW 5/2008 Line 70	Minor	Moderate	\$2,130-\$710			\$2,130

Multiday penalties were not selected as it was not possible to determine the number of days out of compliance at this time. Economic benefit not calculated for these violations.

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS: \$39,459.00

Prepared by:

Janine Kraemer
Environmental Consultant

Jeff Prather
Director, Central District

Date

Date

WORKSHEET
RANKING SYSTEM FOR POTENTIAL FOR HARM

FACILITY NAME: AERC Com, Inc EPA ID #: FLD984262782 Date: 04/09/2013

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
a.	264.71	Manifest	4	8	1	1	14

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	6 - Release	4 - > 1,000
	5 - 1,000 to 5,000 kg	4 - High potential for release	3 - 100 - 1,000
4 - typical hazardous waste	2 - < 1,000 kg (5 drums)		2 - 10 - 100
		1 - No release	1 - <10

MAJOR POTENTIAL FOR HARM: 19-24

MODERATE POTENTIAL FOR HARM: 13-18

MINOR POTENTIAL FOR HARM: 8-12

ONLY VIOLATIONS IN WHICH A "POTENTIAL FOR HARM" SCORE IS REQUIRED ARE LISTED ON THIS PAGE.