



Department of Environmental Protection

Jeb Bush
Governor

Central District
3319 Maguire Boulevard, Suite 232
Orlando, Florida 32803-3767

David B. Struhs
Secretary

ELECTRONICALLY MAILED
jkington@aercrecycling.com

Mr. Jim Kington
AERC Recycling Solutions
4317-J Fortune Place
West Melbourne, FL 32904

WARNING LETTER
OWL-HW-C/E-03-0027

Attention: Jim Kington, Facility Manager

Brevard County - HW
AERC Recycling Solutions
Warning Letter

Dear Mr. Kington:

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 inspection was conducted at your facility on September 4, 2003. The inspection was conducted under the authority of Section 403.091, Florida Statutes, and Chapter 403, Part IV, Florida Statutes in order to determine the compliance status of your facility with 40 CFR 260-268, adopted in Florida Administrative Code Chapter 62-730 and 40 CFR 279, adopted in Florida Administrative Code Chapter 62-710.

During the inspection, possible violations of Florida Statutes and Rules regarding hazardous waste and used oil management were noted. These violations are set forth in "Summary of Potential Noncompliance Items and Corrective Actions" of the attached inspection reports.

The activities observed during the Department's field inspection and any activity at your facility that may be contributing to violations of the above described statutes and rules should be ceased immediately.

The Department has calculated penalties for the violations addressed above. The penalty work sheet is enclosed. The penalty amount was calculated in accordance with the U.S. EPA RCRA Civil Penalty Policy, dated June 2003, and the Department's Guidelines for Characterizing RCRA Violations. A copy of the documents is available upon request.

Please contact Janine Kraemer, Hazardous Waste Section, by telephone at (407) 893-3323 or by e-mail at Janine.Kraemer@floridadep.net within 10 days of receipt of this letter to schedule an informal

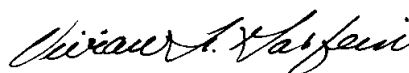
"More Protection, Less Process"

Printed on recycled paper.

conference concerning resolution of this matter. The Department is interested in reviewing any facts you may have that will assist in determining whether any violations have occurred and whether any penalties are appropriate. You may bring anyone with you to the meeting that you feel could help resolve this matter.

This Warning Letter is part of an agency investigation preliminary to agency action in accordance with Section 120.57(4), Florida Statutes. The Department looks forward to your cooperation in completing the investigation and resolution of this matter.

Sincerely,



Vivian F. Garfein
Director, Central District

October 23, 2003

Date

VFG/jk

Enclosures:

RCRA Inspection Report

Penalty Computation Worksheet

cc: Mike Redig, FDEP, Tallahassee, michael.redig@floridadep.net
Laurie DiGaetano, EPA Region 4, digaetano.laurie@epa.gov



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HAZARDOUS WASTE INSPECTION REPORT

1. **INSPECTION TYPE:** Routine Complaint Follow-Up Permitting Pre-Arranged

FACILITY NAME AERC Recycling Solutions EPA ID # FLD984262782

STREET ADDRESS 4317-J Fortune Place, West Melbourne, FL 32904

E-MAIL ADDRESS jkington@aercrecycling.com

COUNTY Brevard PHONE 321-952-1516 DATE 9/4/03 TIME 13:25

NOTIFIED AS: N/A

CURRENT STATUS:

- Non Handler
- CESQG (<100 kg/mo.)
- SQG (100-1000 kg/mo.)
- Generator (>1000 kg/mo.)
- Transporter
- TSD Facility

- Non Handler
- CESQG (<100 kg/mo.)
- SQG (100-1000 kg/mo.)
- Generator (>1000 kg/mo.)
- Transporter
- TSD Facility

Unit Type (s): Storage and Treatment

Unit Type (s): Storage and Treatment

Used Oil:

Used Oil:

2. **APPLICABLE REGULATIONS:**

- | | | | |
|---------------------------------------|--|---|---|
| <input type="checkbox"/> 40 CFR 261.5 | <input checked="" type="checkbox"/> 40 CFR 262 | <input checked="" type="checkbox"/> 40 CFR 263 | <input checked="" type="checkbox"/> 40 CFR 264 |
| <input type="checkbox"/> 40 CFR 265 | <input type="checkbox"/> 40 CFR 266 | <input checked="" type="checkbox"/> 40 CFR 268 | <input checked="" type="checkbox"/> 40 CFR 273 |
| <input type="checkbox"/> 40 CFR 279 | <input type="checkbox"/> 62-710, FAC | <input checked="" type="checkbox"/> 62-730, FAC | <input checked="" type="checkbox"/> 62-737, FAC |

3. **RESPONSIBLE OFFICIAL(s):**

Jim Kington, Facility Manager, AERC Recycling Solutions

4. **INSPECTION PARTICIPANTS:**

Janine Kraemer, FDEP Jim Kington, Facility Manager, AERC Recycling Solutions

5. **LATITUDE/LONGITUDE:** 28°5'39"N/80°41'47"W

6. **SIC Code:** 4214-Local Trucking with Storage

7. **TYPE OF OWNERSHIP:** Private Federal State County Municipal

8. **PERMIT #:** 0072959-002-HO **ISSUE DATE:** December 3, 2001 **EXP. DATE:** December 20, 2006

9. **INTRODUCTION:**

On September 4, 2003, Janine Kraemer, Florida Department of Environmental Protection (FDEP), conducted an inspection of AERC Recycling Solutions (AERC), for compliance with state and federal hazardous waste standards. AERC was inspected as a generator, transporter, universal waste generator/handler, and hazardous waste storage facility.

The facility has operated at this location for 10 years and employs approximately 17 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 named Mercury Technologies International but changed its name to Advanced Environmental Recycling Company (AERC) in 2001.

10. **HISTORY:**

1993

Mercury Technologies International notified as a Large Quantity Generator (LQG) of hazardous waste and Treatment Storage and Disposal (TSD) facility.

1994

Mercury Technologies International notified as a Conditionally Exempt Quantity Generator (CESQG) of hazardous waste and then re-notified later in 1994 as a Small Quantity Generator (SQG) of hazardous waste.

1996

Mercury Technologies International notified as a LQG of hazardous waste.

1997

Mercury Technologies International registered as a Mercury Containing Lamp and Device Transporter and Storage Facility.

1998

The facility was inspected by the Department and was in compliance at the time of the inspection.

1999

The facility was inspected by the Department and was in compliance at the time of the inspection.

2000

The facility was inspected by the Department and was out of 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.

2001

Mercury Technologies International changed their name to AERC and re-notified as a TSD, LQG and Universal Waste Handler. AERC was issued a permit on December 3, 2001. Additionally, the facility was inspected by the Department and was in compliance at the time of the inspection.

2002

AERC notified as a TSD, LQG, Universal Waste Handler and Hazardous Waste Transporter. The facility was inspected by the Department and was in compliance at the time of the inspection

11. 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.

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

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.

12. INSPECTION:

Warehouse

Bulb Storage Area

At the time of the inspection two rows of containers (Figure 1) storing bulbs were waiting to be processed. The two rows, sometimes stacked three high, consisted of one hundred and twelve 55-gallon drums and 8 pallets of miscellaneous size containers. All of the containers were labeled properly.

HID ampoules from the dismantling process were being stored in three 55-gallon drums (Figure 2) that were labeled as hazardous waste but not dated with an accumulation start date [40 CFR 273.35].

Opposite the HID storage area was the liquid mercury containing switches and devices storage area (Figure 4). Liquid mercury containing switches and devices are consolidated and sent to the Pennsylvania facility. All of the containers were labeled and dated properly.

This area also contained the air filtering unit for the LSS-1. Three sets of filters are used to filter the air from the LSS-1. The bank of Pre-Filters have been tested and determined to be non-hazardous. The HEPA-filters and carbon filters are disposed of as hazardous waste.

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 (Figures 5-7 and 12). Batteries are sorted and consolidated by type. An inspection was difficult to conduct due to lack of aisle space [40 CFR 265.35]. Two 55-gallon blue drums, labeled “hazardous waste, acid” and dated 3/21/03, were generated by AERC. As a LQG, AERC has 90 days to dispose of hazardous waste [40 CFR 262.34(a)].

A 30-gallon container, labeled “hazardous waste, baking soda/sulfuric acid”, dated 10/15/02, from Proctor and Gamble was located behind some drums. The label did not indicate a manifest number. Mr. Kington was unaware the drum was on site. The facility is not permitted to accept hazardous waste and did not file a manifest discrepancy report and; therefore, violated the permit General Conditions 14(a)(1) section [403.727(1)(c) Florida Statutes].

NOTE: Mr. Kington provided a discrepancy report to the Department on September 8, 2003 and returned the drum to Safety Kleen.

Thirteen 55-gallon drums of various batteries, seven drums dated 6/4/03 and six drums dated 6/23/03, were waiting to be shipped for recycling. Two 55-gallon drums (Figure 11), containing corrosive waste, were not labeled with an accumulation start date [40 CFR 262.34(a)(2)].

Production Area

LSS-1 (Figure 3) was in operation at the time of the inspection. Fourteen 55-gallon drums of phosphor powder, the oldest drum dated 7/1/03, were waiting to be shipped for disposal. Two 55-gallon drums of carbon filters from LSS-1, dated 7/23/03, were being stored in the same area.

Arc lamps contain liquid mercury; therefore, the lamps cannot be processed at this facility and must be shipped to the Pennsylvania facility. Arc lamps are sorted and stored separately from regular lamps until transported. Many containers of Arc lamps (Figure 9) were not labeled with accumulation start dates [40 CFR 273.35].

NOTE: An employee of AERC immediately dated the containers but with the date of the inspection rather than determining the proper date of generation.

Lamps, coated in plastic (Figure 10), are sorted and stored separately from regular lamps because of the plastic. The containers of plastic coated lamps were not labeled with accumulation start dates [40 CFR 273.35].

The loading dock area (Figure 8) contained new arrivals of universal waste batteries, and mercury containing lamps and devices. The area could not be fully inspected due to the lack of aisle space [40 CFR 264.35/265.34].

Outside next to the loading dock was a roll off container used to store glass from the mercury lamp processing operation. The roll off container was not covered [62-737.800(9) Fla. Admin. Code].

Record Review

Records were reviewed for 2002 and 2003. The records included daily inspection logs, daily container count logs, contingency plan, local authority notification, position descriptions, training records, twelve week rolling average of mercury levels of end caps and glass, biennial report, and manifests.

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. Carbon/Zinc, Zinc Air, and Alkaline Batteries are shipped to INMETCO, Elwood City, Pennsylvania for recycling. Nickel/Cadmium Nickel Hydride and Lead Acid batteries are shipped to Gulf Coast Recycling, Tampa, Florida for recycling. Lithium/Magnesium batteries are sent to Von Roll America, East Liverpool, OH for recycling. Forklift batteries are shipped back to the supplier for repair.

Position descriptions, inspection logs, local authority notifications, land disposal restriction notifications, and the biennial report were in compliance. The contingency plan was last updated in January 2002 and does not include a list of emergency equipment at the facility, the location of emergency equipment, emergency evacuation plan including alternate routes of evacuation, or designates an emergency response contractor [40 CFR 265.37(a)(3) and 265 Subpart D].

Training records indicate that Mr. Kington and Todd Mason were last trained 3/21/02. LQG's are required to conduct training annually [40 CFR 265.16(c)].

13. SUMMARY OF NONCOMPLIANCE ITEMS AND CORRECTIVE ACTIONS:

a) Regulation: 40 CFR 262.34(a)-Over 90 day Storage

A Large Quantity Generator may accumulate hazardous waste on site for 90 days without a permit. Specifically, AERC failed to dispose of two 55-gallon drums dated 3/21/03 within 90 days of generation and AERC is not permitted to store the type of waste stored in the containers.

Corrective Action: AERC must immediately dispose of the hazardous waste dated 3/21/03. In addition, within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been properly trained.

b) Regulation: 40 CFR 262.34(a)(2) - Accumulation time, dating

The date upon which each period of accumulation begins must be clearly marked and visible for inspection on each container. Specifically, AERC failed to label two 55-gallon drums, containing corrosive waste, with accumulation start dates.

Corrective Action: Within 30 days from receipt of this letter, AERC shall, determine the generation start date of the drums in question and mark the drums with that date. In addition, within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written

notification that all employees involved with hazardous waste management and/or practices have been properly trained.

c) **Regulation: 40 CFR 264.35/265.35 – Container Aisle Space**

Large quantity generators shall maintain adequate aisle space between containers of hazardous waste to allow for inspection of the condition and labels of the individual containers. Specifically, AERC did not provide proper aisle space for containers of hazardous waste.

Corrective Action: AERC shall immediately allow sufficient aisle space to allow access for regulatory personnel to inspect all containers and for the unrestricted movement of emergency fire personnel spill control equipment, and decontamination equipment in the event of an emergency.

*****This violation was cited previously, during inspections in 2000.**

d) **Regulation: 40 CFR 264.16(c)/265.16(c) - Personnel training**

Facility personnel must take part in an annual review of their initial training. Specifically, AERC had not provided training of facility personnel trained in hazardous waste management procedures since March 2002.

Corrective Action: AERC shall immediately develop a personnel training plan and schedule training in hazardous waste management for the appropriate facility employees. In addition, within 30 days of receipt of this Warning Letter, AERC shall provide written documentation to the Department that all employees managing hazardous waste have been properly trained.

e) **Regulation: 40 CFR 265.37(a)(3)/ 265 Subpart D – Contingency Plan**

Each owner or operator must have a contingency plan for his facility. Specifically, AERC failed to include a list of emergency equipment at the facility, the location of emergency equipment, or emergency evacuation plan including alternate routes of evacuation, or designated an emergency response contractor contingency plan.

Corrective Action: AERC shall immediately revise the facility contingency plan and emergency procedures to include those outlined in 40 CFR 265.37(a)(3) and 265 Subpart D. In addition, within 30 days of receipt of Warning Letter, AERC shall submit to the Department a written documentation describing how and when this plan will be developed. The completed plan shall be provided to the Department within 90 days of receipt of the Warning Letter.

f) **Regulation: 40 CFR 273.35 - Accumulation time, dating**

Universal waste handlers must be able to demonstrate the generation start date of a universal waste container. Specifically, AERC failed to mark Arc lamp containers, plastic coated lamp containers, or HID ampoule containers with accumulation start dates.

Corrective Action: Within 30 days from receipt of this letter, AERC shall determine the generation start date of the drums in question. In addition, within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been properly trained.

g) **Regulation: 62-737.800(9) Fl. Admin. Code – Open Container**

Operators of mercury recovery facilities must store the separated mercury lamp glass in a covered, watertight container or in manner that otherwise prevents contact with water. Specifically, AERC was storing the mercury lamp glass outside and not under cover.

Corrective Action: AERC shall immediately cover the roll off of glass located near the loading dock. In addition, within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been properly trained.

h) **Regulation: Florida Statute 403.727(1)(c) – Violation of Permit Conditions**

According to AERC permit condition 17.a.(1), page 8; the permittee must submit to the Department a manifest discrepancy report within 15 days after the waste is received and submit a letter report to the Department. Specifically, AERC failed to file a discrepancy report after receiving a drum of baking soda/acid, labeled D002.

Corrective Action: AERC has submitted the report to the Department. Within 30 days of receipt of this Warning Letter, AERC shall submit to the Department written notification that all employees involved with hazardous waste management and/or practices have been properly trained.

13. **CONCLUSION:**

AERC was inspected as a permitted storage/mercury recovery facility, LQG of hazardous waste, and an LQG of universal waste, and was not in compliance at the time of the inspection.

Report Prepared By: Janine Kraemer
Janine Kraemer
Environmental Specialist
10/23/03
Date

PENALTY COMPUTATION WORKSHEET

Violator's Name: AERC Recycling Solutions

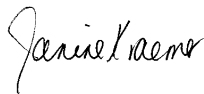
Identify Violator's Facility: 4317-J Fortune Place, West Melbourne, FL 32904

Name of Staff Responsible for the Penalty Computations: Janine Kraemer Date: 9/4/03

	Violation Type	Manual Guide	Potential for Harm	Extent of Deviation	Matrix Range	Economic Benefit	History 10% per Year	Total
a.	262.34(a) Over 90-day storage	HW 6.1	Minor	Moderate	\$1,649-\$550			\$1,100
b.	262.34(a)(2) Accumulation dating	HW 6.2	Minor	Major	\$3,299-\$1,650			\$2,475
c.	264.35/265.35 Aisle Space	HW 9.2	Minor	Moderate	\$1,649-\$550		\$110	\$1,210
d.	265.16(c) Personnel Training	HW 9.5	Moderate	Moderate	\$8,799-\$5,500			\$7,100
e.	265.37 Subpart D Contingency Plan	HW 11.3	Minor	Minor	\$549-\$110			\$330
f.	273.35 Universal Waste dating	HW 6.2	Minor	Major	\$3,299-\$1,650			\$2,475
g.	62-737.800(9) Open Container	HW 14.1	Moderate	Major	\$12,099-\$8,800			\$10,450
h.	403.727(1)(c) Violating Permit Conditions							\$10,000

TOTAL PENALTY AMOUNT FOR ALL VIOLATIONS:

\$35,140.00




Prepared by: _____

Janine Kraemer
Environmental Specialist

10/23/03

Date

Vivian Garfein
Director of District Management

October 23, 2003

Date

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

FACILITY NAME: AERC Recycling Solutions Date: 9/4/03

	Violation	Description	Nature of Waste	Amount of Waste	Release	People	Total Points
a.	262.34(a)	Over 90-day storage	4	2	1	1	8
b.	262.34(a)(2)	Accumulation dating	4	2	1	1	8
c.	264.35/265.35	Aisle Space	4	5	1	1	11
f.	273.35	Universal Waste dating	4	5	1	1	11
g.	62-737.800(9)	Open Container	4	8	4	2	18

SCORING SYSTEM

NATURE OF WASTE	AMOUNT OF WASTE	RECEPTORS	
		Releases	Affected Population
8 - High hazard wastes	8 - > 5,000 kg (25 drums)	4 - 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

Figure 1: Bulbs waiting to be processed

Figure 2: HID ampoules

Figure 3: LSS-1, lamp recycler

Figure 4: Mercury containing switches or liquid mercury



Figure 5: Battery storage area

Figure 6: Battery storage area



Figure 7: Containers of batteries



Figure 8: Loading dock area



Figure 9: Mercury containing bulbs, no date



Figure 10: Plastic coated bulbs



Figure 11: HW containers w/o dates



Figure 12: Label for pallet of batteries.