

REPORT OF RCRA COMPLIANCE EVALUATION INSPECTION

At

ROUTE 69 VAPOR
5912 SE 14th St
Des Moines, Iowa 50320
(515) 285-5872

EPA ID Number: None

On

May 2, 2023

By

U.S. ENVIRONMENTAL PROTECTION AGENCY
Region 7
Enforcement and Compliance Assurance Division

1.0 INTRODUCTION

At the request of the Enforcement and Compliance Assurance Division (ECAD), I conducted a Resource Conservation and Recovery Act (RCRA) compliance evaluation inspection (CEI) at Route 69 Vapor, located in Des Moines, Iowa, on May 2, 2023. The CEI was conducted under the authority of Section 3007(a) of RCRA, as amended. During the inspection, I collected the information and data necessary to determine compliance with the applicable regulatory and statutory requirements. This inspection report and attachments present the results of the CEI.

2.0 PARTICIPANTS

Route 69 Vapor:

- James Cole, Sales Associate (one year in position)
- Mason Goodson, Sales Associate (three years in position)
- Trudy Clemetson, Sales Associate and Ordering Manager (two years in position)

EPA:

- Mark Holcomb, Civil Investigator/Inspector (SEE)

3.0 INSPECTION PROCEDURES

On May 2, 2023, I arrived unannounced at the shop's main entrance at about 1400 hours. Initially, I conducted a visual reconnaissance of the facility searching for areas of concern observable from the adjacent public roadways and parking lots. I identified no environmental issues or concerns during this preliminary examination. I entered the facility through the main entrance. I introduced myself to one of the several sales associates on duty, James Cole. Mr. Cole stated the owners, Mr. Jason Glenn and Heather Glenn were not available. Mr. Cole stated that

he had been working at this store for about one year. Mr. Cole told me there were no specific items of safety personal protective equipment required for our visual inspection at this facility. Mr. Cole stated that he was one of three sales associates on duty that day and all three would be happy to help answer my questions.

At the opening conference, I presented my EPA ID and credentials to Mr. Cole. I next explained the purpose and procedures of the inspection. I then presented Mr. Cole with a copy of RCRA Section 3007(a), which provides inspection authority. I explained my need to collect accurate information and presented him with a copy of Title 18 U.S. Code, Sections 1001 and 1002. I made him aware of his confidentiality rights and informed him that a Confidentiality Notice would be provided at the end of the inspection to make a confidentiality claim if he so desired. Mr. Cole acted as the official facility representative during the inspection.

The inspection CEI consisted of a discussion of facility operations, waste generation, and waste management; a visual inspection of active waste generation and management areas; and a review of waste management records.

I conducted a visual inspection of the following areas:

- Lobby
- Juice Room
- Storage Room

See Attachment #1 for the aerial/map views of the facility.

Document photocopies and photographs were collected as inspection documentation (see Attachments #1-6 and Photos 1-8). The photo log is included as Attachment #2. Information collected during the inspection is documented on an Entry/Exit checklist, the hazardous waste compliance checklists, and in a notebook. I followed the inspection procedures detailed in the RCRA CEI Standard Operating Procedure 2321.01E, unless noted otherwise.

At the conclusion of the inspection, I summarized my findings and recommendations with Mr. Cole. I provided Mr. Cole with a Receipt for Documents (see Attachment #3), a Confidentiality Notice (see Attachment #4), and a Notice of Preliminary Findings (NOPF) (see Attachment #5), which he signed as acknowledgement of receipt. No claim of confidential business information was made by Mr. Cole.

I provided inspection and compliance assistance documents to the owners Mr. and Ms. Glenn post inspection via email in electronic PDF format, that included the following:

- *RCRA Section 3007(a) (EPA Handout)*
- *Title 18 U.S. Code, Sections 1001 and 1002 (EPA Handout)*
- *Confidentiality Notice (Top page of the completed carbonless transfer set)*
- *Notice Regarding Proprietary/Confidential Business Information Submitted to or Collected by EPA In Connection with Inspections (EPA Handout)*
- *Receipt for Documents and Samples (Top page of the completed carbonless transfer set)*
- *NOPF with Instructions for Responding on back of form (top page of the completed carbonless transfer set)*

- *Instructions for Responding to a NOPF (EPA Handout)*
- *U.S. EPA Small Business Resource Information Sheet (EPA Handout)*
- *Solvent-Contaminated Wipes Final Rule Chart (EPA Handout)*
- *Recycling Electronics (Iowa Department of Natural Resources - IDNR Handout)*
- *Lead-Based Paint Activities (IDNR Handout)*
- *Excluded Solvent-Contaminated Wipe Rule (IDNR Handout)*
- *Battery Recycling/Disposal (IDNR Handout)*
- *Management of Fluorescent Lamps for Businesses (IDNR Handout)*
- *Incompatible Chemicals (IDNR Handout)*
- *Universal Wastes Including Aerosol Cans (IDNR Handout)*
- *TCLP Waste Determination Testing (IDNR Handout)*
- *Industry Sector Notebooks (EPA Handout)*
- *Environmental Compliance Assistance Centers (EPA Handout)*
- *e-Manifest Fact Sheet (EPA Handout)*
- *RCRA Online A Quick Reference Guide (EPA Handout)*
- *Requirements for Used Oil Management Standards (EPA Handout)*
- *Emergency Response Program (EPA Handout)*
- *Commercial Motor Vehicle Transportation System Security & Safety (EPA Handout)*
- *Security Awareness (EPA Handout)*
- *Chemical Facility Anti-Terrorism Standards (Homeland Security Handout)*
- *Iowa Life/Changing Iowa Department of Economic Development – Iowa Environmental Guide for Business*

4.0 FINDINGS AND OBSERVATIONS

4.1 Facility Information and Operations

Route 69 Vapor is a retail vape shop that sells both disposable and rechargeable vape devices, as well as various flavored nicotine e-liquids. The facility is privately owned by Mr. Jason Glenn and Ms. Heather Glenn. Mr. Cole stated that this store is one of four owned by the same owners in the greater Des Moines area. The shops have a total of 14 employees that are shared between the four locations. The facility hours are 1000-2000 hours Monday-Thursday, and 1000-1700 hours on Friday-Sunday. This facility is about 2500 square feet and functions as the main sales and warehouse for all four locations. Mr. Cole estimated that they serve around 30 customers per day.

4.2 RCRA Status

Route 69 Vapor has not been inspected previously for RCRA compliance and did not have an EPA ID number listed in RCRAInfo. I verified the facility address and the site contact information with Mr. Cole and updated the EPA RCRA Notification Acknowledgement/Verification Report (see Attachment #6) to indicate the primary contact information. At the time of this inspection, I determined Route 69 Vapor to be a non-generator of hazardous waste and a small quantity handler of universal waste batteries.

4.3 Facility Waste Streams and Management

The following waste streams are managed by Route 69 Vapor:

E-Liquid (Nicotine) - According to Mr. Cole, Route 69 Vapor sells both disposable and rechargeable vape devices, as well as various flavored nicotine e-liquids, commonly referred to as “juice” or “e-juice”, which generally comes in containers ranging from 30 ml to 120 ml (estimated at 30 g to 120 g each). Mr. Cole stated that they only sell pre-packaged e-juice and do not purchase e-juice in bulk and do not make their own e-juice products.

Nicotine is EPA P-listed (P075) as an “acute” hazardous waste. A waste generation rate greater than 1.0 kg (2.2 lbs) per month could result in a large quantity generator (LQG) status and require compliance with LQG RCRA regulations. I asked Mr. Cole to explain the generation amounts and management of the e-juice nicotine. Mr. Cole stated that he was aware of only one occasion in the last year in which an expired e-juice product needing to be returned to the manufacturer. When I asked him to explain the process for managing the expired e-liquid product, Mr. Cole stated that the sales associates are trained to simply place the expired container on the owner’s desk for processing and that the owner takes care of it from there. At the time of the inspection, the owners were not present to explain the process in more detail. Mr. Cole stated there were no uniform hazardous waste manifests, safety data sheets (SDS), or facility invoices to review that he was aware of.

On May 8, 2023, and May 26, 2023, I had addition phone conversations with co-owner, Ms. Heather Glenn. Ms. Glenn stated that the e-juice products have at least a two-year shelf life and the staff watch pending expiration dates closely and move any slow selling products from this store to another store where that product may sell better to help avoid wastage due to expiration dates. They also will mark down sale prices as needed to move product prior to its expiration date. Ms. Glenn stated they may generate only one 60 ml bottle of expired e-juice product per month (estimated at 60 g) and the maximum she recalls returning was five 60 ml bottles (estimated at 300 g or 0.3 kg total) in one month during the previous year. She also emphasized that these totals were for all four stores, not just the one being inspected. Ms. Glenn described the process of handling the expired product. She stated that she returns the expired product to the manufacturer generally for a credit. As noted above, the staff will leave the expired bottle on her desk, still in its original product box. She will seal the expired product in a zip lock bag, wrap it in bubble wrap, and place it in a mailing box. She prints out a return mailing label and ships it based on the manufacturer’s instructions either using UPS, FedEx, or the US Postal Service (USPS). Ms. Glenn stated that each manufacture has their own return mailing process and is required to comply with all regulations regarding intrastate mailing of e-liquids and this generally includes an “e-liquid” label. When I asked Ms. Glenn if they had chosen to follow the newer 40 CFR 266 Subpart P regulations, she stated that she was not familiar with 40 CFR 266 Subpart P. I provided Ms. Glen with EPA’s website link to requirements of 40 CFR 266 Subpart P. During the visual inspection (see Photos 1-6) I did not observe any waste nicotine e-juice products or bulk containers of nicotine e-juice. After further regulatory review, it appears that the expired e-liquid product is a commercial chemical product and not a solid waste under § 261.2 if it is legitimately recycled (per 40 CFR 260.43) and therefore is not subject to hazardous waste regulation when sent for nicotine reclamation.

Universal Waste Batteries - Route 69 Vapor generates an estimated five to ten lithium AA size rechargeable batteries per month, from customers using rechargeable e-cigarettes. The spent batteries are placed in a plastic container in the Juice Room. Mr. Cole stated that the sales associates are well trained in the related lithium battery safety and fire issues and give every customer a battery safety briefing as well as a pocket-sized card of lithium battery safety guidelines. During the visual inspection, I observed a white plastic open top battery basket on the shelf in the Juice Room containing approximately 20-25 rechargeable batteries (see Photos 4 and 7) labeled with words “Bad Batteries.”

NOPF 1: Failure to label the waste batteries as “Universal Waste Batteries”, or “Waste Batteries”, or “Used Batteries as required by 40 CFR 273.14(a)”

Note: the post inspection email reply included photographic documentation that they have added the proper verbiage to the universal waste batteries box.

All the batteries, except for four AA size rechargeable batteries, were safety boxed in individual cardboard boxes protecting their electrodes. Mr. Cole stated that the four loose AA rechargeable batteries appear to have come from a recent security system repair and placed in the bad battery box in error. At the time of the inspection, the staff had boxed the loose batteries and taped all of them up with electrical tape (see Photo 8).

Note: at the time of the inspection, I left a finding NOPF 2: Failure to contain waste universal batteries in a closed container. Post inspection after future review, 40 CFR 273.13(a)(1) only requires damaged or leaking batteries to be contained in a closed container. Additionally, in their email response post inspection, they have added a closed plastic container. NOPF 2 has been rescinded.

There was no accumulation start date noted on the box. When asked how long the spent universal waste batteries had been onsite and/or how often they are disposed of, Mr. Cole stated that he thought they were disposed of about every three months, but he was not sure since this was done by the owner. On a May 8, 2023, phone call with Ms. Glenn, she stated that she removes the accumulated spent batteries from the basket quarterly and takes them to a local Batteries Plus location for proper disposal. Since this is a voluntary drop off location, she does not retain paperwork documentation, but she did note the exact date of her most recent drop-off as February 14, 2023, “Valentine’s Day”. This is well within the one-year onsite limit for universal waste.

On the NOPF Form, I left NOPF 3 [40 CFR 273.15(c)] for failing demonstrate length of time that universal waste batteries have been accumulating. After further review, it appears that the time frame has been adequately demonstrated. Additionally, in their email response post inspection, they have added the accumulation start date to the box. NOPF 3 has been rescinded.

General Trash and Recycling - Route 69 Vapor generates about one bag of general trash and several recyclable cardboard boxes daily from general office operations, break room operations, and warehouse product processing. Route 69 Vapor determined the general trash and cardboard

to be nonhazardous (based on process knowledge). The trash and recyclable dumpsters are serviced weekly and shared by several businesses in the strip mall area. During the visual inspection, I did not observe the dumpster area.

4.4 Other Areas Reviewed

Outside Facility Perimeter - I conducted a limited inspection of the outside perimeter of the facility and observed no hazardous waste storage tanks and containers except as noted above. See the aerial and map views and facility diagram in Attachment #1.

5.0 SUMMARY OF FINDINGS

- 1) **NOPF 1**: Failure to label the waste batteries as “Universal Waste Batteries”, or “Waste Batteries”, or “Used Batteries as required by 40 CFR 273.14(a)
- 2) **NOPF 2**: RESCINDED
- 3) **NOPF 3**: RESCINDED

During the course of the inspection, I observed no additional issues or potential findings. However, further EPA review may include findings.

MARK HOLCOMB
(Affiliate)

Digitally signed by MARK
HOLCOMB (Affiliate)
Date: 2023.06.12
14:46:15 -05'00'

Mark Holcomb
Civil Investigator, SEE

AMBER
WHISNANT

Digitally signed by
AMBER WHISNANT
Date: 2023.06.14
15:22:46 -05'00'

Amber Whisnant
RCRA Section Chief, ECAD/Chemical Branch

Attachments:

- 1) Facility Aerial, and Map Views (3 pages)
- 2) Photo Log (8 photos and 4 pages)
- 3) Receipt for Documents (1 page)
- 4) Confidentiality Notice (1 page)
- 5) NOPF (1 page)
- 6) EPA RCRA Notification Acknowledgement/Verification Report (1 page)