RCRA Inspection Report

1) Inspector and Author of Report

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U.S. Environmental Protection Agency, Region 4
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Chemical Safety and Land Enforcement Branch
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2) Facility Information

Lizard Juice
8565 Somerset Drive
Largo, Pinellas County, Florida 33770

FLR000221036

3) Responsible Official

Gary Wilder
Owner

(727) 421-7222
gary@lizardjuice.com

4) Inspection Participants

Gary Wilder, Lizard Juice
Clay Borchardt, Lizard Juice
Damarius Thompson, Lizard Juice
Zachary Kyle, Lizard Juice
Mollie Enck, Florida Department of Environmental Protection
Warren McNelley, Florida Department of Environmental Protection
Leslie Pedigo, Florida Department of Environmental Protection
M. Brandon Miller, Florida Department of Environmental Protection
William Kappler, U. S. Environmental Protection Agency, Region 4

5) Date of Inspection

March 23, 2023

6) Applicable Regulations[1]

Resource Conservation and Recovery Act (RCRA) Sections 3002 (42 U.S. Code – Annotated

[1] As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations of those authorized provisions will be to the authorized State program. However, for ease of reference, the federal citations will follow in brackets.

U.S.C.A. §§ 6925 and 6927), Chapter 403 of the Florida Statutes, Fla. Stat. § 403.702 *et seq.*, and rules 62.710.210 -.901, and 62-730 *et seq.* of the Florida Administrative Code Annotated (Fla. Admin. Code Ann.) [40 Code of Federal Regulation (C.F.R.) Parts 260 - 270, 273, 278, & 279].

Pursuant to Florida Administrative Code Annotated (F.A.C.) Chapter 62-730.160(1), [40 C.F.R. § 262.15(a)], a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near the point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or without having interim status, as required by Chapter 403 of the Florida Statutes, Fla. Stat.§ 403.702 el seq., [Section 3005 of RCRA, 42 U.S.C. § 6925], and without complying with F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.16(b) or § 262.17 (a)], except as required in F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.15(a)(7) and (8)], provided that the generator complies with the satellite accumulation area (SAA) conditions listed in F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.15(a)] (hereinafter referred to as the "SAA Permit Exemption").

Pursuant to Florida Administrative Code (F.A.C.) Chapter 62-730.160(1) [40 C.F.R. § 262.17], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month is a large quantity generator (LQG) and may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status, as required by Chapter 403 of the Florida Statutes, Fla. Stat.§ 403.702 el seq., [Section 3005 of RCRA, 42 U.S.C. § 6925], provided that the generator complies with the conditions listed in F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17] (hereinafter referred to as the "LQG Permit Exemption").

Pursuant to Florida Administrative Code (F.A.C.) Chapter 62-730.160(1) [40 C.F.R. § 262.17 (f)], a large quantity generators may accumulate on site hazardous waste received from very small quantity generators under control of the same person (as defined in § 260.10 of this chapter), without a storage permit or interim status and without complying with the requirements of parts 124, 264 through 268, and 270 of this chapter, and the notification requirements of section 3010 of RCRA, provided that they comply with the following conditions in Florida Administrative Code (F.A.C.) Chapter 62-730.160(1) [40 C.F.R. § 262.17(f)]. "Control," for the purposes of this section, means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person shall not be deemed to "control" such generators.

7) Purpose of Inspection

The purpose of this inspection was for the U.S. Environmental Protection Agency, Region 4, and the Florida Department of Environmental Protection to conduct a joint unannounced compliance evaluation inspection (CEI) at Lizard Juice, (hereinafter, "LJ" or the "facility") to determine compliance with the applicable requirements of the Resource Conservation and Recovery Act (RCRA) and the corresponding Florida Department of Environmental Protection (FDEP) regulations. This was an EPA lead inspection.

8) Facility Description

LJ is located at 8565 Somerset Drive, Largo, Pinellas County, Florida, Latitude 27.8838, and

Longitude -82.757741. The facility has been at its present location since 2016. The facility employs approximately 5 people and operates Monday through Friday from 9:00 a.m. to 5:00 p.m. The facility operations are conducted in one large building. The City of Largo provides potable water and sanitary sewer services. The primary NAICS code for the facility is 453991 - Tobacco Stores.

LJ is a manufacturer of flavored liquid nicotine for electronic cigarettes for wholesale, through several retail locations, and over the internet. The facility is registered with the FDA as a company that blends, bottles, packages, labels, stores, and tests flavored “e-juice, vape juice and e-liquids” (“e-liquid”) for use with electronic cigarettes. The facility occupies a building within an industrial complex. The facility includes corporate offices, two Food and Drug Administration’s (FDA) regulated “clean rooms”, a storeroom in a mezzanine area over the clean rooms for quality assurance samples and a product warehouse with shipping and receiving areas for incoming ingredients and outgoing packaged products.

The main ingredients in the e-liquids are vegetable glycerin, propylene glycol, nicotine (pharmaceutical and non-pharmaceutical grades), food grade natural flavoring, and water.

In addition, the company packages product manufactured off-site by other establishments. The facility does not manufacture or repair electronic cigarettes or replace batteries. Returned nicotine product that can't be sold is accepted from the retail operations and consolidated by LJ.

The facility follows FDA's good manufacturing practices when manufacturing and blending e-liquids. There are separate clean rooms for mixing, bottling, equipment washing and storage of ingredients. Protective equipment is used before entering the clean rooms. Ingredients used in manufacturing e-liquids are received in the warehouse and the containers are checked, cleaned, and then transferred into a room connected to the blending clean room. The facility produces mainly nicotine e-liquids, but also produces some liquids with no nicotine content and other liquids containing THC free pharmaceutical grade cannabidiol. The carrier solvents for the nicotine are mainly vegetable glycerin or propylene glycol. The various food grade flavorings have a vegetable glycerin base. The nicotine is the only active ingredient in the e-liquids and is a listed hazardous waste (P075) when spilled or discarded as nicotine.

The facility has automated bottling lines capable of handling different amounts of liquid and different sizes of bottles to be filled. The bottling lines include an “Accutek Pneumatic Mini Pinch” and a “Filamatic” liquid filling system. Some hand bottling is also done, for small batches or containers that can't be filled using the automatic equipment.

Manual filling operations are conducted in a room from liquid product received in a one-gallon plastic jug from an external vendor. The liquid product is poured from the gallon jug into a plastic pitcher. Plastic syringes are used to transfer the liquid from the jug/pitcher to a 15 to 60-milliliter vial by hand. The vials are capped, cleaned and labels are applied by hand. Cannabidiol (CDB) products are bottled in 30-milliliter vials. The stainless-steel tables used by staff are wiped down using microfiber rags (rags) and sanitizer between batching operations. Used rags and spill residues are collected and stored in a container.

Manufacturing equipment is cleaned using liquid detergent and isopropyl alcohol (IPA) in

industrial sinks located in a washroom adjacent to the blending room and bottling room. Wash water is discharged to the sewer system.

The facility manages hazardous waste in several SAAs and the facility stores hazardous waste in one central accumulation area (90-day or less accumulation area).

Hazardous waste pharmaceuticals are transported by Clean Earth Specialty Waste Solutions (MNS000110924), Stericycle Specialty Waste Solutions (MNS000110924), Freehold Cartage (NJD084126164) and Action Resources (ALR000007237).

The destination facility is Allworth, LLC (ALD094476793).

LJ submitted a RCRA Subtitle C Site Identification Form, 8700-12FL, to the FDEP in November 2016 as a large quantity generator (LQG) of nicotine waste (P075). The facility submitted a subsequent Form 8700-12FLs in August 2018 and April 2020 as a LQG of D001 and P075 hazardous waste.

LJ most recent Form 8700-12FL submittal to the FDEP was on August 26, 2022, as a LQG of hazardous waste, (P075) and a LQG consolidation facility for eight very small quantity generators (VSQG) locations. Hazardous waste generated at the facility consists of off-spec commercial products and nicotine contaminated debris (P075). The facility notified Allison Castle as the site contact. Allison Castle no longer works at LJ.

9) Previous Inspection History

LJ was inspected by the EPA, Region 4 and FDEP on June 19, 2018, to determine the facility's compliance with state and federal RCRA regulations. The inspectors observed the facility did not conduct a waste determination on solid waste, did not keep containers of hazardous waste closed, did not mark or label containers with the words "hazardous waste", did not mark containers with an accumulation start date, manifest and land disposal restriction deficiencies, did not have a written contingency plan to address emergencies, did not make arrangements with the local authorities, did not have a hazardous waste training program to train staff, did not conduct and/or document weekly container inspections and a biennial report was not submitted for hazardous waste shipped in 2017 before April 1, 2018.

The FDEP initiated an enforcement action that was resolve by a Consent Order (OGC#19-0132) and a $21,012.00 penalty. The facility paid the penalty in four installments.

10) Opening Conference

On March 23, 2023, the EPA inspector William Kappler, accompanied by FDEP inspectors Mollie Enck, Warren McNelly, Leslie Pedigo and M. Brandon Miller, arrived at the facility at approximately 9:40 a.m. The inspectors were received by Clay Borchardt, Executive Assistant/ Vice President of Operations, Zachary Kyle, General Manager, Damarius Thompson, Production Manager, and Gary Wilder, Owner. The inspectors explained the visit as an unannounced RCRA compliance evaluation inspection (CEI). Gary Wilder explained he and his staff had meetings throughout the morning and asked if the inspection could be scheduled after the meetings. The

inspectors explained the CEI could not be scheduled later in the morning after the facility's meetings. Gary Wilder explained he would need approximately 15 minutes to reorganize the morning schedule and he could not attend the CEI but indicated he would arrange for his staff to attend the CEI. The inspectors were escorted by Zachary Kyle and Damarius Thompson to a conference room and were joined by Clay Borchardt for an opening conference. The inspectors introduced themselves, showed their credentials and explained the purpose of the visit.

The inspectors described the anticipated use of a digital camera during the inspection and provided a written list of the records needed for review. The EPA inspector explained that the Small Business Regulatory Enforcement Fairness Act's classification of a "small business" is generally set by the Small Business Administration using the business' SIC/NAICS code and annual receipts or number of employees. A copy of the EPA's information sheet for small businesses can be found at https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf. The EPA inspector also discussed the company's ability, pursuant to 40 C.F.R. §2.203, to assert a business confidentiality claim for information provided to the EPA. LJ did not assert a business confidentiality claim.

LJ provided an overview of the facility's history and current operations during the opening conference. The inspection participants also discussed health and safety protocols and required personal protective equipment before Zachary Kyle, Damarius Thompson and Clay Borchardt (LJ representatives) escorted the inspectors on a tour of the facility operations.

11) Inspection Observations

Receiving and Shipping Area

Ingredients to make the e-liquids and other products are received in this area. Nicotine products are stored in the clean room. Products are shipped from this area. Hazardous waste was not observed in this area at the time of the inspection.

Maintenance Area

The facility conducts maintenance and equipment repairs. Paint brushes, rollers and "BEHR" paint aerosols are used to conduct painting operations. WD-40 aerosol is used to lubricate equipment (Photograph 12). Spent aerosols cans are disposed to the trash. LJ should have a plan for managing these aerosol cans once they are determined to be waste.

Clean Room and Bottling Area

LJ staff and inspectors changed into protective gear before entering the clean rooms. The inspectors observed two automated bottling lines and stainless-steel tables used in the bottling process operation in this area. Bottling is also conducted manually using pipettes and syringes on the tables. Filling operations were not being conducted at the time of the inspection. Inspectors observed a sign on the wall with the words "caution satellite waste accumulation area" (Photograph 3). The inspectors observed two SAAs in this area for the accumulation of hazardous waste. The inspectors observed one 55-gallon container accumulating nicotine contaminated wash water in the first SAA and one closed 15-gallon container for nicotine contaminated debris (pipettes, syringes, disposable wipes and personal protective equipment (PPE) in a second SAA that appeared empty. The inspectors observed the 55-gallon container of hazardous waste was closed and in good condition. The inspectors observed the 55-gallon

container was not marked or labeled with the words hazardous waste and not marked or labeled with a hazard indicator (Photographs 1 and 2). LJ representatives labeled the 55-gallon container with the words hazardous waste and with a hazard indicator (Photograph 4).

The inspectors also observed an empty yellow 20-gallon container for nicotine and IPA contaminated rags (Photograph 5). The LJ representative indicated the rags are picked up and laundered by Cintas.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator must mark or label its container with the words "Hazardous Waste".

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Washroom

Process equipment is rinsed with IPA and water two to three times and the nicotine contaminated wash water is accumulated in a container. The equipment is then washed with detergent and rinsed in a large sink. Hazardous waste was not observed in this area at the time of the inspection.

Flavor Room

Nicotine product labeled as "PurNic" and "NicSalt" in different concentrations is received in 2.5-gallon containers. The flavors are received in one-gallon containers. Propylene glycol and vegetable glycerin are received in 55-gallon containers. The products are stored in this area and in the mixing room. Approximately 80 different flavors are used in the e-liquids. The inspectors asked to review the safety data sheets (SDS) for some of the flavors during the record review. Hazardous waste was not observed in this area at the time of the inspection.

Mixing Room

The facility receives a forecast from the retail stores on the amount of e-liquid needed for stock. A product record and a batch sheet are developed prior to making the e-liquid batch. Depending on the dose, a higher level of nicotine may be used to batch the e-liquid. The mixing equipment is rinsed with IPA and water two to three times and the nicotine contaminated wash water is accumulated in a container. The equipment is then washed with detergent and rinsed in a large sink in the washroom. Spill kits are used for spills. Nicotine contaminated debris is accumulated in a separate container.

Inspectors observed a yellow 20-gallon container accumulating nicotine and IPA contaminated rags in a SAA. The container was accumulating approximately one or two rags. The LJ

representative indicated the rags are picked up and laundered by Cintas. The inspectors observed the container was not closed, not marked or labeled with the words hazardous waste and not marked or labeled with a hazard indicator (Photograph 6).

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator must mark or label its container with the words "Hazardous Waste".

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Central Accumulation Area (90-Day or Less Accumulation)
The central accumulation area (CAA) is inside the building near the maintenance area. The CAA is approximately 12 feet by 12 feet and surrounded by a metal wire fence and a metal wire gate.

The inspectors observed a 10 to 15-gallon plastic "Huskee" container (Huskee container) inside the CAA. The inspectors observed spill control equipment, PPE and empty containers stored in the CAA. The aisle space did not appear adequate for the one Huskee container, because the inspectors could not access the CAA to inspect the container. LJ representatives removed the Huskee container from the CAA for inspection. The inspectors observed the Huskee container was closed, in good condition and accumulating approximately 6 to 7 plastic bags. Each plastic bag was closed, in good condition and accumulating numerous closed various size vials of waste e-liquid consolidated from the VSQG locations. The inspectors observed the Huskee container, each plastic bag and each vial were not marked or labeled with the words hazardous waste, not marked with a date and not marked or labeled with a hazard indicator (Photographs 7, 8 and 9).

The inspectors observed the LJ representatives label the Huskee container with the words hazardous waste, mark the container with the date November 10, 2022 and mark the container with a toxic hazard indicator (Photographs 10, 11 and 13). The inspectors observed the facility appeared to be accumulating hazardous waste for more than 90-days.

Pursuant to F.A.C. Chapter 62-730.160(4) [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.255 and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit

Exemption, the large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(A)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the following the words "Hazardous Waste".

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(B)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.,* ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(C)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)], which is a condition of the LQG Permit Exemption, a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided the following condition for exemption is met:
A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section.

Mezzanine Floor Storage Room

LJ uses the room for storage of quality assurance (QA) production samples and FDA regulated products. QA samples were stored in dated boxes and in plastic bags in Sterlite bins. Samples held before or after laboratory analysis are excluded from the definition of hazardous waste in accordance with 40 C.F.R. 261.4(d) while being held for a specific purpose. LJ appears not to have a specific sample retention policy that identifies when the samples should be discarded. A retention policy should be developed and any samples not meeting this policy should be properly disposed of.

The inspectors observed nine one-gallon containers and one five-gallon container of liquid flavors. The flavors may no longer be useable or are discontinued product due to the expiration date.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in F.A.C. Chapter 62-730.030(1) [40 C.F.R. § 261.2], must use the steps articulated in F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.11] to make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.

Waste Management

Employees that generate hazardous waste accumulate it in containers at the point of generation. Full containers are transferred to the central accumulation area for storage.

Records Review

RCRA Subtitle C Site Identification Form, 8700-12F

LJ submitted a Form 8700-12FL, of its regulated waste activity to FDEP, on August 26, 2022, notifying as a LQG of hazardous waste, (P075) and a LQG consolidation facility for eight VSQG locations. The facility notified Allison Castle as the site contact. Allison Castle no longer works at LJ. It appears LJ has not notified of the change in status.

Pursuant to F.A.C. Chapter 62-730.150(2)(b), all generators, transporters, or persons who own or operate a facility which treats, stores, or disposes of hazardous waste, and everyone required to notify under Rule 62-730.181, F.A.C., shall notify the Department of all changes in status and shall use the "8700-12FL – Florida Notification of Regulated Waste Activity," Form 62-730.900(1)(b), [adopted by reference in paragraph 62-730.150(2)(a), F.A.C.], to do so. Changes in status include, but are not limited to: changes in the facility name, location, mailing address, business form, ownership or management control of the facility or its operations; ownership of the real property where the facility is located; facility contact person; type of regulated waste activity; changes in the amount of hazardous waste generated per month that put the facility in a different generator category, going out of business; tax default; or petition for bankruptcy protection.

Manifests

The hazardous waste manifests and land disposal restriction notifications were reviewed from June 2018 to the present. Hazardous waste manifests are signed by Damarius Thompson and Katherine MacBeth. The printed name of the generator in box 15 for several manifests was not legible and inspectors could not determine the name of person signing the manifest. The inspectors observed a gap in shipments of hazardous waste from May 20, 2020 (manifest 021143091 JJK) to October 3, 2022 (manifest 024669102 JJK). The inspectors observed the hazardous waste manifests between those shipments were not available for review. The inspectors observed the facility's last shipment of hazardous waste was on October 3, 2022.

The inspectors observed hazardous waste manifest number 021143091 JJK, 016130197 JJK, 017598356 JJK and 016129765 JJK listed in Table 1 was missing the manifest with the written signature and the date the hazardous waste was received by the destination facility.

Table 1				
Manifest No.	Generator Date	TSDF Date	Waste Description	Amount
024669102 JJK	10/3/22	10/18/22	Waste Nicotine Debris, P075	240 pounds
021143091 JJK	5/20/20	None	Waste Nicotine Debris, P075 Waste Nicotine, P075	12 pounds 110 gallons
016130197 JJK	10/18/19	None	Waste Nicotine, P075	165 gallons
016133119 JJK	7/11/19	8/5/19	Waste Nicotine Debris, P075 Waste Nicotine, P075	11 pounds 110 gallons
017598356 JJK	4/8/19	None	Waste Nicotine Debris, P075 Waste Nicotine, P075	15 gallons 110 gallons
017598042 JJK	1/22/19	2/11/19	Waste Nicotine, P075	165 gallons
016127967 JJK	1/9/19	1/28/19	Waste Nicotine Debris, P075	37 pounds
016127610 JJK	10/3/18	10/15/18	Waste Nicotine, P075	165 gallons
016129765 JJK	7/11/18	None	Waste Nicotine Debris, P075	15 gallons

There were no hazardous waste manifests entered in the EPA's E-Manifest Record System.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.42(a)(2)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in § 261.31or § 261.33(e) in a calendar month, must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:
A legible copy of the manifest for which the generator does not have confirmation of delivery and a cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

Land Disposal Restriction
The inspectors observed the land disposal restriction notification records were not available for review.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(9)], which incorporates F.A.C. Chapter 62-730.183(1) [40 C.F.R. § 268.7(a)(8)], and is a condition of the LQG Permit Exemption, a LQG complies with all applicable requirements under 40 C.F.R. part 268.

Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator. The requirements of this paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 40 CFR 261.2

through 261.6, or exempted from Subtitle C regulation, subsequent to the point of generation.

LQG Consolidation Records
LJ notified the FDEP on August 26, 2022, as a LQG of hazardous waste, (P075) and a LQG consolidation facility for eight VSQG locations. The FDEP issued a letter dated October 18, 2022 on the status of LJ as a LQG and LQG consolidation facility.

The inspectors reviewed the facility's consolidation records titled, "Monthly Hazardous Waste Drop Off Log" (log) from August 1, 2022 to December 11, 2022. The inspectors observed the consolidation records after December 11, 2022 were not documented and not available for review. The inspectors observed the log identified the VSQG location, the date, the site contact and the weight in pounds. The inspectors observed the log did not identify the site address and did not have a description of the hazardous waste received at the facility.

The inspectors observed the facility did not notify the FDEP at least 30 days prior to receiving hazardous waste from the VSQG locations. VSQG hazardous waste was received by the facility on August 1, 2022.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)(1)], the large quantity generator notifies EPA at least thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA Form 8700–12.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)(2)], the large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

Records for Laundered Rags/Wipes
At the time of the inspection, facility staff indicated that Cintas launders the solvent contaminated rags. The inspectors requested to review three years of records. The inspectors observed the records were not available at the time of the inspection.

Waste Determination/Profiles/Safety Data Sheets (SDS)
The inspectors randomly reviewed the SDSs for the flavors, "Cake Batter", "Watermelon" and "Natural Blood Orange". Common chemical ingredients in the flavors consist of propylene glycol and ethanol. The SDS for Cake Batter indicated a flash point of 109 degrees Fahrenheit. The SDS for Natural Blood Orange indicated a flash point of 26.6 degrees Celsius (79.8 degrees Fahrenheit).

Contingency Plan
The inspectors reviewed the contingency plan (Plan). The Plan listed Kat MacBeth as the primary emergency coordinator and Damarius Thompson as the alternate. Kat MacBeth is no longer employed by LJ. Inspectors observed the Plan did not show areas of the facility where hazardous waste is generated and accumulated.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.263(c) and (d) and is a condition of the LQG Permit Exemption, the contingency plan must be reviewed, and immediately amended, if necessary, whenever: The generator facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency and the list of emergency coordinators changes.

Quick Reference Guide

The inspectors observed a quick reference guide (QRG) was not developed and submitted to the local emergency responders.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates F.A.C Chapter 62.730.160(1) [40 C.F.R. § 262.262(b)], a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the elements listed in 40 C.F.R. § 262.262(b)(1-8).

Arrangements with Local Authorities

The inspectors observed the facility attempted to make the arrangements with the local authorities on or about April 22, 2018.

Weekly Container Inspection Records

The inspectors reviewed the weekly container inspection records from July 11, 2018 to September 22, 2020. The inspectors observed the weekly container inspections after September 22, 2020 were not documented and not available for review. LJ representatives indicated Kat MacBeth and Josh Bowles conducted the inspections. The inspectors observed the weekly inspection records were missing the time of the inspection, the printed name of the person conducting the inspection and the number of containers storing hazardous.

Pursuant to F.A.C. Chapter 62-730.160(3), generators of hazardous waste who accumulate hazardous waste on-site under 40 CFR 262.16, and 262.17 [as adopted in subsection 62-730.160(1), F.A.C.], shall maintain written documentation of the inspections required under 40 C.F.R 262.16 and 262.17 [as adopted in subsection 62-730.160(1), F.A.C.]. The generator shall keep the written documentation of the inspections under this section for at least three years from the date of the inspection. At a minimum, this documentation shall include the date and time of the inspection, the legibly printed name of the inspector, the number of containers, the condition of the containers, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Personnel Training Records

The inspectors reviewed the RCRA training records. Zac Kyle and Damarius Thompson manage and handle hazardous waste at the facility. Zac Kyle started his employment with LJ on or about June 2019 and Damarius Thompson started his employment with LJ on or about July 2016.

RCRA hazardous waste generator training certificates were reviewed for Damarius Thompson, Kat MacBeth and Josh Bowles. Damarius Thompson was given RCRA training on August 15, 2018, Kat MacBeth was given RCRA training on August 15, 2018 and Josh Bowles was given RCRA training on October 8, 2018. Zac Kyle indicated he conducts the weekly container inspections and manages hazardous waste in the central accumulation area. Zac Kyle has not been given RCRA training. The records documenting the job title and position description were not available for review at the time of the inspection.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(i)(A)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction, online training (*e.g.,* computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(A)(B)], which is a condition of the LQG Permit Exemption, the large quantity generator must maintain the following documents and records at the facility:

The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

Biennial Report
The inspectors observed the 2021 biennial report was not submitted in March 2022.

Pursuant to F.A.C. Chapter 62-730.160(2) [40 C.F.R. § 262.41(a)], which is a condition of the LQG Permit Exemption, a generator who is a large quantity generator for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700–13 A/B to the Regional Administrator by March 1 of the following even-numbered year and must cover generator activities during the previous year.

Aerosol Can Management
LJ should have a plan for managing the aerosol cans once they are determined to be waste.

12) Closing Conference

The inspectors conducted a closing conference with Lizard Juice representatives. The inspectors stated their preliminary conclusions of the inspection.

13) Inspection Findings

The following RCRA requirements were discussed with LJ representatives.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.11], a person who generates a solid waste, as defined in F.A.C. Chapter 62.730.030(1) [40 C.F.R. § 261.2], must use the steps articulated in F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.11] to make an accurate determination as to whether that waste is a hazardous waste in order to ensure wastes are properly managed according to applicable RCRA regulations.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(i)], which is a condition of the SAA Permit Exemption, a generator must mark or label its container with the words "Hazardous Waste".

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(5)(ii)], which is a condition of the SAA Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (i.e., ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.15(a)(4)], which is a condition of the SAA Permit Exemption, a generator is required to keep containers of hazardous waste closed at all times during accumulation, except when adding, removing, or consolidating waste; or when temporary venting of a container is necessary for the proper operation of equipment, or to prevent dangerous situations, such as build-up of extreme pressure.

Pursuant to F.A.C. Chapter 62-730.160(4) [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.255 and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, the large quantity generator must maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(A)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the following the words "Hazardous Waste".

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(B)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG

Permit Exemption, a generator must mark or label its containers with an indication of the hazards of the contents (examples include, but are not limited to, the applicable hazardous waste characteristic(s) (*i.e.,* ignitable, corrosive, reactive, toxic); hazard communication consistent with the Department of Transportation requirements at 49 CFR part 172 subpart E (labeling) or subpart F (placarding); a hazard statement or pictogram consistent with the Occupational Safety and Health Administration Hazard Communication Standard at 29 CFR 1910.1200; or a chemical hazard label consistent with the National Fire Protection Association code 704).

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)], which incorporates F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(a)(5)(i)(C)], and complies with the independent requirements identified in § 262.10(a)(1)(iii) and is a condition of the LQG Permit Exemption, a generator must mark or label its containers with the date upon which each period of accumulation begins clearly visible for inspection on each container.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)], which is a condition of the LQG Permit Exemption, a large quantity generator may accumulate hazardous waste on site without a permit or interim status, and without complying with the requirements of parts 124, 264 through 267, and 270 of this chapter, or the notification requirements of section 3010 of RCRA, provided the following condition for exemption is met:
A large quantity generator accumulates hazardous waste on site for no more than 90 days, unless in compliance with the accumulation time limit extension or F006 accumulation conditions for exemption in paragraphs (b) through (e) of this section.

Records

Pursuant to F.A.C. Chapter 62-730.150(2)(b), all generators, transporters, or persons who own or operate a facility which treats, stores, or disposes of hazardous waste, and everyone required to notify under Rule 62-730.181, F.A.C., shall notify the Department of all changes in status and shall use the "8700-12FL – Florida Notification of Regulated Waste Activity," Form 62-730.900(1)(b), [adopted by reference in paragraph 62-730.150(2)(a), F.A.C.], to do so. Changes in status include, but are not limited to: changes in the facility name, location, mailing address, business form, ownership or management control of the facility or its operations; ownership of the real property where the facility is located; facility contact person; type of regulated waste activity; changes in the amount of hazardous waste generated per month that put the facility in a different generator category, going out of business; tax default; or petition for bankruptcy protection.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.42(a)(2)], a generator of 1,000 kilograms or greater of hazardous waste in a calendar month, or greater than 1 kg of acute hazardous waste listed in § 261.31or § 261.33(e) in a calendar month, must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

A legible copy of the manifest for which the generator does not have confirmation of delivery and a cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(9)], which incorporates F.A.C. Chapter 62-730.183(1) [40 C.F.R. § 268.7(a)(8)], and is a condition of the LQG Permit Exemption, a LQG complies with all applicable requirements under 40 C.F.R. part 268.

Generators must retain on-site a copy of all notices, certifications, waste analysis data, and other documentation produced pursuant to this section for at least three years from the date that the waste that is the subject of such documentation was last sent to on-site or off-site treatment, storage, or disposal. The three-year record retention period is automatically extended during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator. The requirements of this paragraph apply to solid wastes even when the hazardous characteristic is removed prior to disposal, or when the waste is excluded from the definition of hazardous or solid waste under 40 CFR 261.2 through 261.6, or exempted from Subtitle C regulation, subsequent to the point of generation.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)(1)], the large quantity generator notifies EPA at least thirty (30) days prior to receiving the first shipment from a very small quantity generator(s) using EPA Form 8700–12.

Pursuant to F.A.C. Chapter 62-730.160(1), [40 C.F.R. § 262.17(f)(2)], the large quantity generator maintains records of shipments for three years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.263(c) and (d) and is a condition of the LQG Permit Exemption, the contingency plan must be reviewed, and immediately amended, if necessary, whenever: The generator facility changes—in its design, construction, operation, maintenance, or other circumstances—in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency and the list of emergency coordinators changes.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(6)], which incorporates F.A.C Chapter 62.730.160(1) [40 C.F.R. § 262.262(b)], a large quantity generator that first becomes subject to these provisions after May 30, 2017 or a large quantity generator that is otherwise amending its contingency plan must at that time submit a quick reference guide of the contingency plan to the local emergency responders identified at paragraph (a) of this section or, as appropriate, the Local Emergency Planning Committee. The quick reference guide must include the elements listed in 40 C.F.R. § 262.262(b)(1-8).

Pursuant to F.A.C. Chapter 62-730.160(3), generators of hazardous waste who accumulate hazardous waste on-site under 40 CFR 262.16, and 262.17 [as adopted in subsection 62-730.160(1), F.A.C.], shall maintain written documentation of the inspections required under 40 C.F.R 262.16 and 262.17 [as adopted in subsection 62-730.160(1), F.A.C.]. The generator shall keep the written documentation of the inspections under this section for at least three years from the date of the inspection. At a minimum, this documentation shall include the date and time of the inspection, the legibly printed name of the inspector, the number of containers, the condition of the containers, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(i)(A)], which is a condition of the LQG Permit Exemption, facility personnel must successfully complete a program of classroom instruction, online training (*e.g.,* computer-based or electronic), or on-the-job training that teaches them to perform their duties in a way that ensures compliance with this part. The large quantity generator must ensure that this program includes all the elements described in the document required under paragraph (a)(7)(iv) of this section.

Pursuant to F.A.C. Chapter 62-730.160(1) [40 C.F.R. § 262.17(a)(7)(iv)(A)(B)], which is a condition of the LQG Permit Exemption, the large quantity generator must maintain the following documents and records at the facility:

The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job.

A written job description for each position listed under paragraph (a)(7)(iv)(A) of this section. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position.

Pursuant to F.A.C. Chapter 62-730.160(2) [40 C.F.R. § 262.41(a)], which is a condition of the LQG Permit Exemption, a generator who is a large quantity generator for at least one month of an odd-numbered year (reporting year) who ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must complete and submit EPA Form 8700–13 A/B to the Regional Administrator by March 1 of the following even-numbered year and must cover generator activities during the previous year.

14) Sampling Overview

Sampling was not conducted.

15) List of Appendices

Appendix 1 – Photograph Log:
Photos taken on: March 23, 2023
Photos taken by: William Kappler

Samsung Camera (Model WB250F)
EPA Property Tag# S75917

16) Signed

WILLIAM KAPPLER

Digitally signed by WILLIAM KAPPLER
Date: 2023.05.26 17:30:03 -04'00'

William Kappler
Physical Scientist

Date

Concurrence

ARACELI CHAVEZ

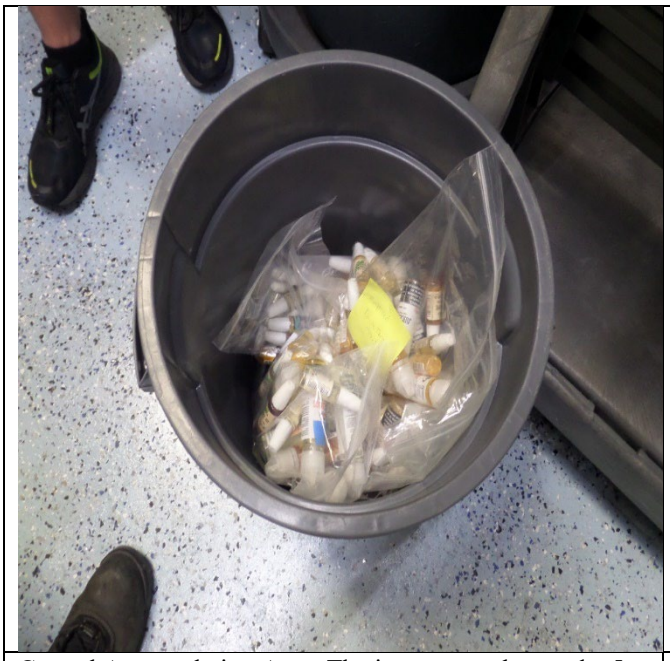
Digitally signed by ARACELI CHAVEZ
Date: 2023.05.31 08:55:03 -04'00'

Araceli B. Chavez
Chief
RCRA Enforcement Section

Date

	
Clean Room and Bottling Area. Inspectors observed one 55-gallon container accumulating nicotine contaminated wash water in a SAA. Observed the container was not marked or labeled with the words hazardous waste and not marked or labeled with a hazard indicator. Photograph 1 taken at 10:47 a.m.	Clean Room and Bottling Area. Inspectors observed a 15-gallon container accumulating waste nicotine debris in a second SAA. Observed the container was not marked or labeled with the words hazardous waste and not marked or labeled with a hazard indicator. Photograph 2 taken at 10:47 a.m.
	
Clean Room and Bottling Area. Inspectors observed a sign on the wall identifying as a SAA. Photograph 3 taken at 10:47 a.m.	Clean Room and Bottling Area. The LJ representative label the container with words hazardous waste and with a hazard indicator. Photograph 4 taken at 10:53 a.m.

	
Clean Room and Bottling Area. Inspectors observed a 20-gallon yellow container accumulating waste IPA/nicotine contaminated cloth rags in a third SAA. The container was empty. The LJ representative indicated the rags are laundered. Photograph 5 taken at 10:57 a.m.	Flavor Room/Mix Room. Inspectors observed a 20-gallon yellow container accumulating waste IPA/nicotine contaminated cloth rags in a SAA. The container was accumulating one cloth rag. The LJ representative indicated the rags are laundered. Observed the container was not closed, not marked or labeled with the words hazardous waste and not marked or labeled with a hazard indicator. Photograph 6 taken at 10:59 a.m.
	
Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the container or plastic bags were not marked or labeled with the words hazardous waste, not marked with a date and not marked or labeled with a hazard indicator. Photograph 7 taken at 11:12 a.m.	Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the container or plastic bags were not marked or labeled with the words hazardous waste, not marked with a date and not marked or labeled with a hazard indicator. Photograph 8 taken at 11:12 a.m.

	
Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the container or plastic bags were not marked or labeled with the words hazardous waste, not marked with a date and not marked or labeled with a hazard indicator. Photograph 9 taken at 11:17 p.m.	Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the LJ representative labeled the container with the words hazardous waste, marked with the date 11/10/22 and marked with a toxic hazard indicator. Photograph 10 taken at 11:17 p.m.
	
Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the LJ representative labeled the container with the words hazardous waste, marked with the date 11/10/22 and marked with a toxic hazard indicator. Photograph 11 taken at 11:18 p.m.	Maintenance Area. Paint using paint brushes and rollers and aerosols. Photograph 12 taken at 11:20 p.m.

Central Accumulation Area. The inspectors observed a 5-gallon container inside a larger container accumulating plastic bags of waste liquid nicotine vials consolidated from LJ VSQG retail stores. Observed the LJ representative labeled the container with the words hazardous waste, marked with the date 11/10/22 and marked with a toxic hazard indicator. Photograph 13 taken at 1:42 p.m.