



REGION 7

LENEXA, KS 66219

VIA ELECTRONIC TRANSMITTAL

RETURN RECEIPT REQUESTED

Email: fitzpatrick.timmery@cleanharbors.com

Timmery Fitzpatrick
Clean Harbors Environmental Services, Inc.
PO Box 9149
42 Longwater Drive
Norwell, MA 02061-9149

Re: Notice of Potential Violation and Opportunity to Confer
Resource Conservation and Recovery Act
In the Matter of Clean Harbors Environmental Services, Inc.

Dear Ms. Fitzpatrick:

The unauthorized handling of hazardous waste presents a significant threat to the human health and the environment. The U.S. Environmental Protection Agency and state partners are dedicated to the safe management of hazardous waste from generation to disposal. Under the Resource Conservation and Recovery Act, any party that transports, stores, and/or disposes of hazardous waste must demonstrate compliance with the law.

On August 27-29, 2024, the EPA conducted an inspection at the Clean Harbors Environmental Services, Inc. Facility located at 2247 South Highway 71, Kimball, Nebraska 69145. The inspection was conducted to determine the compliance status of Clean Harbors with the requirements of RCRA. The EPA has completed its review of the information collected and alleges that Clean Harbors is in violation of the following requirements of RCRA and Nebraska Administrative Code, Title 128 – Rules and Regulations Governing Hazardous Waste Management:

- Failure to maintain and operate the Facility to minimize the release of hazardous waste constituents to air, soil, or surface water or groundwater which could threaten human health or the environment, as required by 40 CFR. § 264.31, 128 Nebraska Administrative Code §21-003, and Section C.1 of Clean Harbors' Hazardous Waste Operating Permit.
- Failure to keep all containers holding hazardous waste closed during accumulation or storage and ensure each container is equipped with a cover as required by 40 CFR § 264.173 incorporated in 128 Nebraska Administrative Code §21-009 and Section F.7.a. of Clean Harbors' Hazardous Waste Operating Permit, and failure to ensure that each container is equipped with a cover and closure devices that form a continuous barrier

over the container openings with no visible holes, gaps, or other open spaces into the interior of the container as required by Section F.12.b.3 of Clean Harbors' Hazardous Waste Operating Permit.

- Failure to meet criteria that would exempt Clean Harbors from obtaining a permit or interim status for storage of waste on-site for 90 days or less as required by 128 Nebraska Administrative Code §10-004.01 by failing to clearly mark the date upon which each period of accumulation begins on each container as required by Nebraska Administrative Code §10-004.01F.
- Failure to meet criteria that would exempt Clean Harbors from obtaining a permit or interim status for storage of waste on-site for 90 days or less as required by 128 Nebraska Administrative Code §10-004.01 by failing to place hazardous waste in containers in Central Accumulation Area A, as required by 128 Nebraska Administrative Code §10-004.01A.

The EPA's primary concern is Clean Harbors' return to full compliance as expeditiously as possible. The EPA also believes that these violations are significant enough to warrant the assessment of a civil penalty.

By this letter, the EPA invites Clean Harbors to negotiate a fair resolution of this matter – either in person, via conference call, or in writing – prior to the Agency filing a civil complaint. If you choose to participate in negotiations, the parties will discuss the following during our initial meeting:

- The EPA's allegations.
- What efforts, if any, are necessary for Clean Harbors to return to compliance.
- The proposed penalty and how the EPA calculated it.
- Opportunities for mitigating the proposed penalty, including Clean Harbors' ability to pay.
- Options and next steps for resolving this matter.
- Any facts or issues Clean Harbors wants the EPA to know regarding this matter.
- The draft Consent Agreement and Final Order that EPA proposes in settlement of this matter (enclosed).

Enclosed are "Additional Sources of Information" describing EPA's enforcement and settlement authorities as well as resources for parties to an EPA enforcement action.

EPA generally provides a period of 60 days to reach settlement before considering more formal enforcement options.

If Clean Harbors is interested in participating in negotiations, please contact Jonathan Meyer in EPA Region 7's Office of Regional Counsel at (913) 551-7140 or Edwin Buckner in EPA Region 7's Enforcement and Compliance Assurance Division at (913) 551-7621, within **10 calendar days** of receipt of this letter. If you do not contact the EPA to participate in negotiations, the Agency may proceed with the filing of a civil complaint to resolve the matter.

Your prompt attention to this matter is greatly appreciated.

Sincerely,

**DAVID
COZAD**

Digitally signed by
DAVID COZAD
Date: 2025.06.24
15:37:17 -05'00'

David Cozad

Director

Enforcement and Compliance Assurance Division

Enclosed: Additional Sources of Information

cc:

Alyssa King
Environmental Compliance Manager
Clean Harbors
2247 South Highway 71
Kimball, NE 69145

Kara Valentine (e-copy)
Interim Director
Nebraska Department of Environment and Energy

Brad Pracheil (e-copy)
Division Administrator
Inspection & Compliance
Nebraska Department of Environment and Energy

Jeffery L. Edwards (e-copy)
Environmental Supervisor
Waste Compliance Section; Inspection and Compliance Division
Nebraska Department of Environment and Energy

Additional Sources of Information

- Fact Sheet: The EPA's Civil Enforcement Program:
<https://www.epa.gov/system/files/documents/2024-09/civilenforcementfactsheet-printversion093024.pdf>
- Information on RCRA and hazardous waste regulations:
<https://www.epa.gov/rcra/resource-conservation-and-recovery-act-rcra-regulations>
- RCRA Civil Penalty Policy:
<https://www.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy>
- Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22: these are regulations describing EPA's administrative settlement and litigation authorities:
<https://www.epa.gov/enforcement/consolidated-rules-practice-40-cfr-part-22-administrative-assessment-civil-penalties-1>
- Information on Small Businesses and Enforcement: This resource provides an array of resources to help small businesses understand and comply with federal and state environmental laws:
<https://www.epa.gov/compliance/small-business-resources-information-sheet>
- "Using All Appropriate Injunctive Relief Tools in Civil Enforcement Settlements," April 26, 2021: This guidance discusses various policy and legal tools that may be applied in enforcement settlements:
<https://www.epa.gov/enforcement/using-all-appropriate-injunctive-relief-tools-civil-enforcement-settlements>