



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Ms. Susan Handrick
Branch Environmental, Health, and Safety Manager
Veolia ES Technical Services
W124 N 9451 Boundary Road
Menomonee Falls, Wisconsin 53051
Susan.handrick@veolia.com

Re: **Notice of Violations and Opportunity to Confer**
Compliance Evaluation Inspection Report and Description of Areas of Concern
Veolia ES Technical Solutions
Facility ID: WID003967148
Menomonee Falls, Wisconsin

Dear Ms. Handrick:

On August 2-3, 2023, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Veolia ES Technical Services ("Veolia" or "facility or you") located in Menomonee Falls, Wisconsin. The purpose of the inspection was to evaluate Veolia's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste¹ under licenses 3135, 6012, and 6013 (together, "the Licenses"). We have enclosed a copy of the inspection report for your convenience.

Information currently available to EPA suggests that Veolia may be in violation of RCRA. By this letter, EPA is extending to you an opportunity to advise the Agency, in person or in writing, of any further information EPA should consider with respect to the areas of concern.

During the inspection, EPA observed several areas of concern, described below. The description of the areas of concern is not a final determination regarding the Facility's compliance with RCRA. EPA requests that you voluntarily submit a response in writing to us no later than 30 calendar days after receipt of this letter documenting the actions, if any, which you have taken since the inspection to address the areas of concern described below or demonstrating why the areas should not be of concern.

1. We note that effective September 1, 2020, the State of Wisconsin promulgated revised regulations which have not yet been authorized by EPA. EPA authorized the 2006 edition of Wisconsin's hazardous waste regulations which contained a provision at Wis. Admin. Code § 662.034 (2006) that remains the RCRA authorized Large Quantity Generator provision in Wisconsin.

Areas of Concern

During the inspection, EPA observed the following areas of concern:

Part I - Storage of Hazardous Waste Without Applicable Permit Conditions and Failure to Comply With Permit Exemptions, Violating Section 3005 of RCRA, 42 U.S.C. § 6925(a) and State Licensing Requirements

A large-quantity generator of hazardous waste who is also a permitted treatment, storage, and or disposal facility (TSDF) must follow not only the conditions of its licenses, but also any large-quantity generator conditions for a license exemption that are not specifically addressed in its licenses.

During the inspection, EPA observed Veolia's failure to comply with large-quantity generator conditions for an exemption from a license that are not specifically included as conditions in the Wisconsin Licenses. Upon failure to comply with any such conditions, a generator who is also a licensed TSDF must either come into compliance with the conditions for exemption or apply for a license modification that allows the generator an alternative to compliance with the conditions for exemption. Failure either to comply with the conditions for exemption or to modify the license is a violation of Wisconsin Admin. Code § 670.001(3) and 670.010(1) and (4). For purposes of remedying violations listed in items 1 and 2 below, EPA recommends that Veolia comply with the conditions for a license exemption instead of applying for a modification of the hazardous waste storage license.

Many large-quantity generator conditions for a license exemption are also independently violable requirements that apply to TSDFs. When a hazardous waste generator that is also a TSDF fails to comply with a condition in Wisconsin Admin. Code § 662.034 that is incorporated from a TSDF requirement in Wisconsin Admin. Code ch. NR 665, the generator not only violates Wisconsin Admin. Code §§ 670.001(3), and 670.010(1) and (4), but also simultaneously violates the incorporated TSDF requirement that corresponds with the condition for a license exemption.

1. Hazardous Waste Container Labeling

Under Wis. Admin. Code § NR 662.034(1)(c), a large quantity generator must label or clearly mark each container holding hazardous waste with the words "Hazardous Waste." At the time of the inspection, a tote was staged in Depack East with a funnel in the top and approximately 1/3 full of waste. The tote was missing the required label at the time it was observed. Please see page 8 and photo 27 of the enclosed inspection report.

Under Wis Admin Code NR 662.034(3)(a)2., a large quantity generator must mark a satellite container with either the words "Hazardous Waste" or with other words that identify the contents of the container. At the time of inspection, one (1) satellite drum of used PPE was observed without a label in the Stabilization building. One (1) satellite drum of used PPE was observed without a label in the Household Hazardous Waste (HHW) area of Depack East. Please see page 6 and photos 11-12 of the enclosed inspection report.

2. Testing and Maintenance of Emergency Equipment

Under Wis. Admin. Code § NR 664.0033, “All facility communications or alarm systems, fire protection equipment, spill control equipment and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency.” At the time of the inspection, a fire extinguisher was observed in the Stabilization building with an out-of-date inspection tag. Please see page 6 of the enclosed inspection report. Veolia showed proof of the annual recertification occurring on August 3, 2023. EPA is not requesting further information regarding this violation.

Part II – Storage of Hazardous Waste in Violation of Wisconsin License Condition.

3. Waste Storage Identification

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Storage Conditions 18, “Signs and/or placards shall be used to identify the different types of wastes stored, such as poisons, reactives, corrosives, ignitables, etc.” At the time of inspection, each row of shelving in the RCRA Storage Building had placards on the end to denote what wastes were stored in the row, but the placards inaccurately noted the waste observed stored in the rows. Specifically, two rows marked with DOT class 8 corrosive placards stored containers with DOT class 5 oxidizer labels. In addition, a row marked with a DOT class 8 corrosive placard stored containers marked with DOT class 4 flammable and class 6 toxic labels. Please see photos 15, 20, and 22 of the enclosed inspection report.

4. Container Stacking

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Container Conditions 31, “Veolia shall stack containers no more than three (3) containers high.” At the time of inspection, containers were observed in the RCRA Storage Building stacked over three (3) high. Please see page 6 of the enclosed inspection report.

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Waste Stabilization Unit Treatment Conditions 50 “. . . Veolia shall not stack containers atop one another in the staging area.” At the time of inspection, containers were observed stacked in the staging area of the Stabilization Building. Please see page 6 and photo 9 of the enclosed inspection report.

5. Hazardous Waste Container Conditions

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Container Conditions 26, “Veolia shall store waste in structurally sound (undamaged) U.S. DOT approved containers.” At the time of inspection, two (2) 55-gallon poly drums of corrosive with sucked-in sides were observed in the RCRA Storage Building. Please see page 7 and photo 21 of the enclosed inspection report.

6. Open Hazardous Waste Containers

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Container Conditions 35, containers shall be covered or closed except when adding or removing waste. At the time of inspection, two (2) totes were staged in Depack East with funnels in the tops. One (1) of the totes was approximately 1/3 full of liquid waste while the other appeared empty. The tote which the Inspectors observed containing waste was not closed or being actively filled at the time it was observed. Please see page 8 and photo 27 of the enclosed inspection report.

7. Inspection of Hazardous Waste Containers

Under Veolia ES Technical Solutions, LLC License Number 3135, Conditions of Approval, Container Conditions 28, "Containers shall be placed in the storage area so that labels are visible from the aisles." At the time of inspection in the RCRA Storage Building, due to the number of small containers observed on some pallets, labels were not visible on each container. Please see photos 15, 20, and 22 of the enclosed inspection report.

Part III - Other Violations

8. Hazardous Waste Determination

Under Wis. Admin. Code § NR 662.011, a generator must determine whether its waste is hazardous. At the time of the inspection, Veolia had not made a determination whether the waste generated during sampling of incoming waste was hazardous and was disposing of waste sampling equipment as non-hazardous. Please see page 5 and photo 4 of the enclosed inspection report.

Actions Requested

By no later than 30 calendar days from the date of this letter, please provide information documenting the actions, if any, which you have taken since the inspection to address the identified areas of concern, as well as any additional information requested.

Please send all reports requested by this letter by electronic mail to:

r5lecab@epa.gov

and

cole.shawn@epa.gov

The subject line of all email correspondence must include WID003967148. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. If you are unable to send a response to these email addresses due to email size restrictions or other problems, contact Shawn Cole to make additional arrangements for transmission of the response.

This letter is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks information from specific individuals or entities as part of an administrative investigation. You may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information you submit to EPA in response to this letter. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If you do not assert a business confidentiality claim when you submit the information, EPA may make this information available to the public without further notice.

The EPA contact in this matter is Shawn Cole. You may contact him at cole.shawn@epa.gov if you have additional questions. Thank you for your prompt attention to these concerns and your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Michael Ellenbecker, WDNR (michael.ellenbecker@wisconsin.gov)
Andrea Keller, WDNR (andrea.keller@wisconsin.gov)