



REGION 9

SAN FRANCISCO, CA 94105

Via Electronic Mail: Daniel.W.Schuerle@eps-materials.com

Danny W. Schuerle
Plant Manager
Engineered Polymer Solutions
5523 E. Slauson Ave.
Commerce, CA 90040

RE: Notice of Intent to File a Complaint Pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), Engineered Polymer Solutions (EPA Identification Number: CAD 002 277 093)

Dear Danny Schuerle:

On or around May 25, 2022, the United States Environmental Protection Agency ("EPA") provided you with a letter (the "Initial Notice of Intent") to notify you that the EPA was preparing to issue a civil administrative complaint against Engineered Polymer Solutions ("EPS") located at 5523 E. Slauson Avenue in Commerce, California ("Facility") pursuant to Section 3008(a) of the Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. §§ 6921-6939e, for violations discovered during a routine compliance evaluation inspection performed at the Facility on May 4 and 5, 2021.

EPA has reviewed EPS's response and supplemental response to the Initial Notice of Intent, dated September 2, 2022, and September 16, 2022, respectively.

EPA is issuing this letter to notify you that EPA remains prepared to issue a civil administrative complaint against EPS pursuant to Section 3008(a) of RCRA, based on alleged violations discovered during EPA's 2021 inspection and revised after consideration of the information you provided. The revised alleged violations against EPS, which supersede the alleged violations set forth in the Initial Notice of Intent, include:

1. Failure to determine if waste must be treated to meet applicable treatment standards before it can be land disposed, in violation of 22 C.C.R. § 66268.7 [40 C.F.R. § 268.7];¹

¹ EPA is enforcing California hazardous waste management program requirements, in the California Code of Regulations (C.C.R.), Title 22, Division 4.5, as approved and authorized by the United States. Under Section 3006 of RCRA, 42 U.S.C. § 6926, violations of the State of California's authorized hazardous waste management program are federally enforceable/ For ease of reference, corresponding federal citations are provided in brackets.

2. Failure to make an accurate waste determination, in violation of 22 C.C.R. § 66262.11 [40 C.F.R. § 262.11];
3. Failure to comply with equipment leak standards of Title 22, Division 4.5, Chapter 15, Article 28 (Air Emission Standards for Equipment Leaks) of the California Code of Regulations (“Article 28”) [see also 40 C.F.R. §§ 265.1050-1065];
4. Failure to comply with air emission standards of Title 22, Division 4.5, Chapter 15, Article 28.5 (Air Emission Standards for Tanks, Surface Impoundments, and Containers) for Tank T-20, including the requirements to determine the average volatile organic concentration at the point of waste origination and determine the maximum organic vapor pressure for each hazardous waste placed in Tank T-20, and the requirement to control air pollutant emissions from a tank using Tank Level 1 controls [see also 40 C.F.R. §§ 66265.1080-1090];
5. Failure to comply with hazardous waste tank secondary containment requirements for Tank T-20, in violation of 22 C.C.R. § 66265.193 [40 C.F.R. § 265.193]; and
6. Failure to perform daily inspection of Tank T-20, in violation of 22 C.C.R. § 66265.195 [40 C.F.R. § 265.195].

Section 3008(g) of RCRA, 42 U.S.C. § 6928(g) as adjusted by the “Civil Monetary Penalty Inflation Adjustment Rule” (87 Fed. Reg. 1676 (January 12, 2022)), authorizes a civil penalty of up to \$90,702 per day per violation for violations occurring after November 2, 2015, and where, as here, penalties are assessed on or after December 27, 2023.

EPA anticipates filing a Complaint, Compliance Order and Notice of Right to Request a Hearing (“Complaint”) against EPS within the next thirty (30) calendar days unless EPS advises EPA of substantial reasons not to proceed. EPA is extending to EPS a further opportunity to submit any information that EPA should consider before issuing the Complaint. Relevant information may include any evidence of reliance on compliance assistance, additional compliance tasks performed after the inspection, or financial factors bearing on EPS’ ability to pay a civil penalty. Even if you are unaware of any mitigating or exculpatory factors, we are extending to you the opportunity to commence settlement discussions concerning the above-described violations.

Any penalty discussed in settlement negotiations for violations of RCRA and its implementing regulations will be calculated pursuant to EPA’s June 2003 “RCRA Civil Penalty Policy.”² The penalty policies are subject to inflation adjustments under the applicable Civil Monetary Penalty Inflation Adjustment Rule, as well as potential changes in EPA guidance.

Please note that, pursuant to regulations located at 40 C.F.R. Part 2, Subpart B, you are entitled to assert a business confidentiality claim covering any part of any submitted information as defined in 40 C.F.R. § 2.201(c). Failure to assert such a claim makes the submitted information subject to public

² <http://www2.epa.gov/enforcement/resource-conservation-and-recovery-act-rcra-civil-penalty-policy>.

disclosure upon request and without further notice to you, pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq.

Thank you for your prompt attention to this matter. If you are interested in commencing settlement negotiations or have any questions regarding this notice, please contact Christopher Rollins, EPA RCRA Inspector, at (415) 947-4166 or at rollins.christopher@epa.gov, or have your attorney contact Laura Friedli, Assistant Regional Counsel, at (415) 972-3325 or at friedli.laura@epa.gov.

Sincerely,

**RICHARD
SAKOW**

Digitally signed by RICHARD
SAKOW
Date: 2024.03.20 17:58:52
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Rick Sakow, Manager

Hazardous Waste and Chemicals Section

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