



**REGION 5**

CHICAGO, IL 60604

October 23, 2024

**ELECTRONIC MAIL  
DELIVERY RECEIPT REQUESTED**

Roger Quackenbush  
EHS Manger  
Bway Corporation  
3200 South Kilbourn Avenue  
Chicago, Illinois 60623  
[roger.quackenbush@mauserpackaging.com](mailto:roger.quackenbush@mauserpackaging.com)

Re: **Notice of Violation(s)**  
Bway Corporation  
Facility ID: ILD005069711  
Chicago, Illinois

Dear Mr. Quackenbush:

On March 14, 2024, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Bway Corporation ("Bway" or "you") located in Chicago, Illinois. The purpose of the inspection was to evaluate Bway's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste. We have enclosed a copy of the inspection report for your convenience.

Information currently available to EPA suggests that Bway is 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 violation(s).

We request 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 violations identified below or demonstrating why the violation(s) have not occurred. At this time, EPA does not plan additional enforcement action under RCRA in response to the violations identified in this letter assuming Bway demonstrates full compliance. EPA, however, reserves its right to take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order.

## **Storage of Hazardous Waste without a Permit or Interim Status Which Violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and State Permitting Requirements**

During the inspection, EPA observed Bway's failure to comply with the RCRA permit exemption condition, below. When a hazardous waste generator fails to comply with the conditions for a permit exemption, the generator becomes an operator of a hazardous waste storage facility without a permit in violation of Ill. Admin. Code tit. 35 §§ 703.121(a) and (b); 703.180(c); and 705.121(a) [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. Many of the RCRA permit exemption conditions are also independent requirements that apply to permitted and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to comply with an exemption condition incorporated from Ill. Admin. Code tit. 35 Part 725, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. For purposes of remedying noncompliance or preventing future violations, EPA recommends that Bway comply with the condition below instead of applying for a hazardous waste storage permit.

### **1. Training**

Under Ill. Admin. Code tit. 35 §§ 722.134(a)(4) and 725.116(a)(2), facility personnel of a large quantity generator must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this part. The program must be directed by a person trained in hazardous waste management procedures and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

At the time of the inspection, Bway did have a RCRA personnel training program; however, though the training included hazardous waste management procedures, the training did not include contingency plan implementation.

## **Other Violations**

### **2. Used Oil Storage Requirement**

Under Ill. Admin. Code tit. 35 § 739.122(a), used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under parts 724 or 725 of this chapter.

At the time of the inspection, used oil was located on the floor in the manufacturing area where used oil that was leaking from manufacturing equipment was being collected, and was not being stored in a tank or container.

### **3. Used Oil Labeling Requirement**

Under Ill. Admin. Code tit. 35 § 739.122(c)(1), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, several containers of used oil, located in the manufacturing area where used oil that was leaking from manufacturing equipment was being collected, were not labeled with the words, "Used Oil."

### **Actions Requested**

In order to ensure compliance, by no later than 30 calendar days after receipt of this letter, please provide information documenting the actions, if any, which you have taken since the inspection to address the identified violations or demonstrating why the violation(s) have not occurred.

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

[r5lecab@epa.gov](mailto:r5lecab@epa.gov)

and

[paulin.jamie@epa.gov](mailto:paulin.jamie@epa.gov)

The subject line of all email correspondence must include your EPA identification number, ILD005069711. 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 Jamie Paulin 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 Jamie Paulin. You may contact her at (312) 886-1771 or at [paulin.jamie@epa.gov](mailto:paulin.jamie@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  
HARRIS**

Digitally signed by  
MICHAEL HARRIS  
Date: 2024.10.23  
14:59:10 -05'00'

Michael D. Harris  
Division Director  
Enforcement and Compliance Assurance Division

Enclosure

cc: Chris Cahnovsky, Illinois Environmental Protection Agency (IEPA), [Chris.Cahnovsky@illinois.gov](mailto:Chris.Cahnovsky@illinois.gov)  
Dustin Burger, IEPA, [Dustin.Burger@illinois.gov](mailto:Dustin.Burger@illinois.gov)