



REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL

CONFIRMATION OF RECEIPT EMAIL REQUESTED

Mikelle Moore
EHS Manager
Penn A Kem, LLC
3324 Chelsea Avenue
Memphis, Tennessee 38108
mmoore@pennakem.com

SUBJ: Opportunity to Show Cause
Resource Conservation Recovery Act (RCRA) Compliance Evaluation Inspection (CEI)
Penn A Kem, LLC, EPA ID: TND120603170

Dear Mikelle Moore:

On April 09, 2024, the U.S. Environmental Protection Agency, along with the Tennessee Department of Environment and Conservation (TDEC), conducted a RCRA CEI at Penn A Kem, LLC located in Memphis, Tennessee to determine the facility's compliance status with RCRA and applicable regulations. This RCRA CEI was an EPA-lead inspection.

The EPA has determined that the facility may not be in compliance with several requirements of the Tennessee Hazardous Waste Management Act of 1977, Tennessee Code Annotated (Tenn. Code Ann.) § 68-212-101 et seq., [Subtitle C of RCRA, 42 U.S.C. §§ 6921 to 6939(g)], and the regulations promulgated pursuant thereto, found at Chapter 0400-12-01 of the Rules and Regulations of the State of Tennessee (Tenn. Comp. R. & Regs.) [Title 40 of the Code of Federal Regulations (C.F.R.) Parts 260 through 279] based on potential violations observed during the CEI. The observations made during the inspection are summarized in the attached RCRA CEI Report.

Please provide a detailed written response within fourteen (14) days following receipt of this letter describing any actions that Penn A Kem, LLC has taken and/or intends to take related to the observations and potential violations documented in the RCRA CEI Report. Your response should be emailed to:

Kayla Acosta
acosta.kayla@epa.gov
U.S. Environmental Protection Agency, Region 4

Internet Address (URL) <http://www.epa.gov>

RCRA Enforcement Section
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division

Information currently available to the EPA suggests that Penn A Kem, LLC may be in violation of, or have committed violations of, RCRA. By this letter, the EPA is extending to you an opportunity to advise the Agency, via a conference call, of any further information the EPA should consider with respect to the potential violations. Penn A Kem, LLC may elect to be represented by legal counsel at this meeting and should be prepared to present relevant information and documentation pertaining to the EPA's observed potential violations.

The EPA may determine that a formal enforcement action is appropriate and may assess civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). Therefore, Penn A Kem, LLC has the opportunity to present factors and documentation that could mitigate any penalties that may be assessed against the facility, including information on Penn A Kem, LLC ability to pay a penalty. Prior to the meeting, Penn A Kem, LLC may review the following documents:

- **RCRA Civil Penalty Policy** found at: <https://www.epa.gov/sites/default/files/2020-05/documents/june2003rcracivilpenaltypolicyamended050620.pdf>
- **Amendments to EPA's Civil Penalty Policies to Account for Inflation:**
<https://www.epa.gov/system/files/documents/2024-01/amendmentstotheepacivilpenaltypolicyinflation011524.pdf>

Please be advised that any information provided by Penn A Kem, LLC at the meeting may be used by the EPA in any civil or criminal proceedings related to this or other matters. Any false, fictitious, or fraudulent material omissions, statements or representations may subject Penn A Kem, LLC to criminal penalties under Section 3008(d)(3) of RCRA, 42 U.S.C. § 6928(d)(3).

If Penn A Kem, LLC chooses to accept this offer to meet with the EPA, the facility should contact Kayla Acosta **within fourteen (14) days** following receipt of this letter to schedule a conference call. Kayla Acosta can be reached at (404) 562-8451 or by email at acosta.kayla@epa.gov. If you decide not to accept this offer to meet to discuss the observed potential violations, the EPA may proceed with enforcement action against Penn A Kem, LLC as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), including the assessment of appropriate civil penalties and injunctive relief.

If Penn A Kem, LLC is a Small Business or a Small Community, you can find compliance and enforcement resources specifically designed to meet your needs at: <http://www2.epa.gov/enforcement/small-businesses-and-enforcement>. In that webpage you can find information about the Small Business Regulatory Enforcement Fairness Act (SBREFA) that accords some rights to small businesses and is aimed at providing assistance to small businesses and other small entities, making tools available for better understanding of the regulatory and enforcement processes, and seeing that there is no unfair treatment relating to the regulatory enforcement process.

Please feel free to contact Kayla Acosta if you have any technical questions regarding the observations and findings from the inspection performed at Penn A Kem, LLC's facility.

Sincerely,

ARACELI
CHAVEZ

Digitally signed
by ARACELI
CHAVEZ
Date: 2024.06.26
12:57:39 -04'00'

Araceli B. Chavez
Acting Chief
Chemical Safety and Land Enforcement Branch

Enclosure

1. 20240409 Penn A Kem RCRA CEI Report

cc: Christopher Lagan; TDEC
christopher.lagan@tn.gov

Rob Ashe; TDEC
rob.ashe@tn.gov

Jim Holt; TDEC
jim.holt@tn.gov

Jason Simpson; TDEC
jason.simpson@tn.gov

Shondra White; Penn A Kem
swhite@pennakem.com