



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Ms. Kay Haggard
Environmental and Products Stewardship Manager
Fort Wayne Metals Research Products Corporation
3618 West Ferguson Road
Fort Wayne, Indiana 46809
kay_haggard@fwmetals.com

Re: Notice of Potential Violation and Opportunity to Confer
Fort Wayne Metals Research Products Corporation
EPA I.D. No.: INR000003533
Fort Wayne, Indiana

Dear Ms. Haggard:

On November 2, 2020, the U.S. Environmental Protection Agency issued a request for information under Section 3007 of Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6927 to Fort Wayne Metals Research Products Corporation ("Fort Wayne Metals Research Products," "facility" or "you") located in Fort Wayne, Indiana. The purpose of the request was to evaluate Fort Wayne Metals Research Products' compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. Fort Wayne Metals Research Products responded to the request on December 15-16, 2020. Fort Wayne Metals Research Products submitted additional information regarding the requested information on January 8, 2021.

EPA has reviewed the information in the above-referenced responses. Information currently available to EPA suggests that Fort Wayne Metals Research Products 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 potential violations.

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 potential violations identified below or demonstrating why the violations have not occurred. At this time, EPA does not plan additional enforcement action under RCRA in response to the potential violations identified in this letter assuming Fort Wayne

Metals Research Products demonstrates full compliance. EPA, however, reserves its rights 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 Potentially Violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and State Permitting Requirements

Based on Fort Wayne Metals Research Products' responses to the request for information, EPA identified Fort Wayne Metals Research Products' failure to comply with the RCRA permit exemption conditions identified 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 329 Ind. Admin. Code 3.1-13-3 and 40 C.F.R. §§ 270.1(c), and 270.10(a) and (d) [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 329 Ind. Admin. Code 3.1-10-1 and 40 C.F.R. Part 265, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement.

For purposes of remedying potential noncompliance or preventing future violations, EPA recommends that Fort Wayne Metals Research Products comply with the conditions below instead of applying for a hazardous waste storage permit. The permit exemption conditions identified below are also independent TSD requirements:

1. Training

Under 329 Ind. Admin. Code 3.1-7-1, 40 C.F.R. Part 262.34(a)(4) and 265.16, a large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel to perform their duties in a way that ensures the facility's compliance with requirements of RCRA. With respect to this training program, a large quantity generator must maintain the following documents and records at its facility for employees filling a position related to hazardous waste management: the job title for each position at the facility and the name of the employee filling each job; a written job description for each position; a written description of the type and amount of both introductory and continuing training that will be given; and records that document that the training or job experience described above has been given to and completed by facility personnel.

Fort Wayne Metals Research Products was unable to provide records that document that the annual training described above had been given to and completed by Jeffrey Gardner for the year 2018 and Robert Fred for the year 2019.

Fort Wayne Metals Research Products did not provide the initial hazardous waste training to Eric Riveria until 15 months after his hire date.

Actions Requested

In order to ensure compliance, 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 potential violations or demonstrating why the violations have not occurred.

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

r5lecab@epa.gov

and

burrus.sheila@epa.gov

The subject line of all email correspondence must include “INR000003533”. 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 Sheila Burrus, of my staff, to make additional arrangements for transmission of the response.

If you are unable to respond in a timely fashion because of impacts related to the COVID-19 pandemic, please submit a written extension request via email to Sheila Burrus at burrus.sheila@epa.gov, explaining the specific impacts on your ability to respond.

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 Sheila Burrus. You may call her at (312) 886-3587 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: Ms. Jennifer Reno, IDEM (jreno@idem.in.gov)