



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270-2102

June 9, 2020

VIA E-MAIL: penny.martin@BCBSLA.com

Penny Martin
Blue Cross and Blue Shield of Louisiana
5525 Reitz Avenue
Baton Rouge, LA 70809

RE: Potential RCRA Violations and Opportunity for Settlement

Dear Ms. Martin,

The United States Environmental Protection Agency, Region 6 ("EPA"), through its investigation and records review, made certain determinations about Blue Cross and Blue Shield of Louisiana and its facility located at 5525 Reitz Avenue, Baton Rouge, LA. Specifically, EPA has identified potential violations of the Resource Conservation and Recovery Act ("RCRA"), and the regulations promulgated thereunder. I therefore write to share with you: (1) the current areas of concern; (2) an option for resolution; and (3) a timeline for resolution.

Current Areas of Concern

As a generator of hazardous waste, Blue Cross and Blue Shield of Louisiana is subject to Sections 3002 and 3010 of RCRA, 42 U.S.C. §§ 6922 and 6930, and the regulations set forth at Title 33 of the Louisiana Administrative Code (LAC) Part V, Chapters 3-5, 7, and 11 [40 Code of Federal Regulations (C.F.R.) Parts 262 and/or 270]. Upon further investigation, EPA may determine that Blue Cross and Blue Shield of Louisiana is also subject to Sections 3004 and 3005 of RCRA, 42 U.S.C. §§ 6924 and 6925, and the regulations promulgated thereunder.

Based on EPA's current investigation and records review, Blue Cross and Blue Shield of Louisiana is identified as a Very Small Quantity Generator. However, according to eManifest(s) listed in Attachment 1, at least once within the last five calendar years, the Blue Cross and Blue Shield of Louisiana generated hazardous waste in quantities between 100 kilograms and 1,000 kilograms per calendar month, which qualified the Blue Cross and Blue Shield of Louisiana as a Small Quantity Generator as established under Title 33 of the Louisiana Administrative Code (LAC) Part V, Chapters 3-5, 7, and 11 [40 Code of Federal Regulations (C.F.R.) Parts 262 and/or 270].

At a minimum, EPA identified the following potential violations:

- i. Failure to meet RCRA notification requirements, in violation of RCRA § 3010(a), 42 U.S.C. § 6930(a);
- ii. Failure to operate within its stated generator status for at least one (1) year, in violation of LAC: Part V, Chapter 11, 40 C.F.R. Parts 262 and/or 270.

EPA is prepared to meet and discuss the potential violations, and other areas of concern, with Blue Cross and Blue Shield of Louisiana, with the aim of resolving this matter through a timely settlement process.

An Option for Resolution

Upon receipt of this letter, if Blue Cross and Blue Shield of Louisiana is interested in resolving the matter through settlement, Blue Cross and Blue Shield of Louisiana has until 06/23/2020, to inform EPA via email or by phone by contacting:

U.S. EPA, Region 6
1201 Elm Street, Suite 500
Enforcement and Compliance Assurance Division (ECDSR)
ATTN: Tripti Thapa
Dallas, Texas 75270-2102

e-mail: thapa.tripti@epa.gov

Thereafter, Tripti Thapa will make arrangements to meet with Blue Cross and Blue Shield of Louisiana facility representatives either at the EPA office in Dallas, Texas, or via a conference call. During this meeting or conference, Blue Cross and Blue Shield of Louisiana may address the potential violations and present evidence that contravenes EPA's evidence. The main goal of this option is to bring the facility into timely compliance with the applicable environmental laws and regulations.

To the extent that Blue Cross and Blue Shield of Louisiana qualifies as a "small business" under the Small Business Regulatory Enforcement Fairness Act, enclosed is an Information for Small Businesses sheet that provides information on compliance assistance.

Timetable for Resolution

Given the nature of the potential violations listed above and the current evidence that EPA has in support of these violations, EPA estimates that the parties could have an agreed upon Administrative Order on Consent by 07/23/2020. This is contingent on whether Blue Cross and Blue Shield of Louisiana avails itself of the settlement process now offered and works amicably with the EPA. It should be noted that if Blue Cross and Blue Shield of Louisiana decides not to accept this streamlined option for settlement, Blue Cross and Blue Shield of Louisiana should notify EPA of its decision in writing to Tripti Thapa by 06/23/2020. Thereafter, EPA will exercise its other options for ensuring Blue Cross and Blue Shield of Louisiana's timely compliance with RCRA and the regulations promulgated thereunder.

EPA acknowledges that the COVID-19 pandemic may be impacting your business. If that is the case, EPA will consider your specific circumstances in determining an appropriate timeline for responding to this request for information, while still ensuring that the Agency receives the information it needs to timely confirm your company's compliance with the RCRA.

Please direct questions to Tripti Thapa of the Waste Enforcement Branch at 214-665-7563. Thank you for your attention to this matter.

Sincerely,

 Date:
2020.06.09
13:47:03 -05'00'

Margaret Osbourne
Branch Chief
Waste Enforcement Branch

Enclosure – Small Business Resources Information Sheet

eCC: craig.easley@la.gov
phyllis.luke@la.gov

ATTACHMENT 1

Date	Manifest Number
05/22/2019	006924142SKS
06/05/2019	006924271SKS

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers

www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888- GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center

(CATC) Info-line www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills - <http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Office of Enforcement and Compliance Assurance

U.S. Small Business Resources

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.