UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

FEB 1 1 2019

CERTIFIED MAIL - RETURN RECEIPT REQUESTED: 7014 0150 0000 2406 1311

Ms. Michelle Eaglin
Environmental Manager
Rubicon St. Gabriel Plant
9156 Highway 75
St. Gabriel LA 70734

Dear Ms. Eaglin:

The United States Environmental Protection Agency (EPA) conducted a Resource Conservation and Recovery Act (RCRA) Compliance Evaluation Inspection at the Rubicon facility in St. Gabriel Louisiana, August 27 - 31, 2018. A copy of the Inspection Report was provided to you via email.

The Inspection Report noted several areas of concern, some of which were resolved, or actions were taken to prevent their recurrence during the inspection. We appreciate Rubicon's quick responses to all areas of concern noted during the inspection. However, we must inform you that we believe that Rubicon was in violation of certain legal requirements of RCRA at the time of the inspection.

During the inspection, EPA personnel observed the following areas of concern at Rubicon St. Gabriel Plant:

1 **40 CFR §262.31 and 40 CFR §262.32 – Hazardous waste container labeling and marking.** During this inspection, multiple containers were found to be unmarked and/or unlabeled. Some containers were marked and labeled during the inspection.

2 **40 CFR §262.34– Accumulation of hazardous waste.** This inspection identified multiple satellite accumulation areas operated by Rubicon. These areas contained one or more containers which violated accumulation limits for volume. Satellite accumulation areas can only contain a maximum of 55 gallons in any manner of container. Once the volume of hazardous waste accumulated in a satellite accumulation area exceeds this 55-gallon limit, it must be managed according to the provisions established for < 90-day accumulation and includes, but is not limited to: the labeling and marking requirements of 40 CFR 262.34 (a)(2 and 3); the container management standards of 40 CFR 265 Subpart I; and the RCRA air emissions requirements of 40 CFR 265 Subparts AA, BB, and CC.

3 **40 CFR §265.35 – Required Aisle Space.** During the inspection, it was documented that Rubicon's permitted storage area contained a pallet of waste containers placed in such a way that it blocked access and violated the two-foot rule for required space. The containers were moved to create ample aisle space during the inspection.

4 **40 CFR §265.31 – Design and Operation of Facility.** Examination of Rubicon's secondary containment for the storage area revealed the concrete liner contained many cracks and pits with evidence of repair. It was undetermined whether cracks and pitting were significant enough to allow migration of contaminants into underlying substrate.

5 **40 CFR §265.31 – Design and Operation of Facility.** Tank MS-2207 was noted during the inspection to show evidence of a leak that had not completely been cleaned up. Photos of the tank show visible staining from where a valve had been leaking. Residue from the leak was also present in the secondary containment.

6 **40 CFR §265.31 – Design and Operation of Facility**. Aniline 2 baghouse, when inspected, showed fugitive baghouse dust in various locations throughout the area. While this material enjoys a variance from hazardous waste regulation, once this material becomes abandoned or spilled it becomes K103 listed hazardous waste. Spills which are immediately cleaned up would traditionally avoid the transference into a regulated waste as long as the nature of said waste is unchanged.

7 **40 CFR §262.34 (a)(1)(i) – Container requirements.** During the inspection of the east maintenance shop, an open container containing hazardous waste was identified. An additional container was located through the use of a TVA-1000B in the Lab area for QA/QC. Both containers were either closed or replaced during the inspection.

8 **40 CFR §265.16 – Training.** During the inspection, a selection of personnel training records were reviewed. Post review of the selected individuals, it was observed that one of the selected employees had failed to receive hazardous waste training for roughly two years.

In order to resolve these potential violations, Rubicon, LLC. must take the following actions to return to compliance within 45 days of the receipt of this letter:

Container Management Per 40 CFR §262 subpart C, a person who generates and places hazardous waste in containers must label and mark each container with the words "Hazardous Waste" and the date when the wastes' accumulation began. Satellite containment areas may only contain a total of 55 gallons of hazardous wastes. Once the volume of hazardous waste in a satellite accumulation area exceeds this 55-gallon limit, it must be placed in a unit which is fully compliant with the standards specified in 40 CFR §262.34 (a) (1, 2, and 3). Rubicon should examine the facility's container management policy to insure all hazardous waste containers are appropriately marked and labeled. In addition, Rubicon should re-examine the current use of satellite accumulation areas to ensure that when the volume of wastes exceeds 55-gallons it is placed in an appropriate < 90-day accumulation unit and labeled in the regulated time frame.

Design and operation of facility. Four particular instances were documented which lead to this area of concern. First the lack of isle spacing, which was corrected during the inspection. Second was the cracked and pitted secondary containment structure. Third was evidence of a leak which had not been completely cleaned up and residue remained. Fourth would be the fugitive bag house dust contained in Aniline baghouse 2. Each of these instances require Rubicon to examine its facility operation. The issues noted in the inspection report are general facility operation points. When waste is stored it is required to have adequate space between the rows of containers to allow access by emergency response equipment and personnel. Secondary containment must be free of access points for contaminants to reach underlying substrate, and spills or leaks must be stopped and cleaned up immediately to ensure releases to the environment do not occur. In most cases these are issues related to daily operation of a hazardous waste facility and Rubicon needs to examine the respective procedures for facility operation and waste handling.

Training. The EPA inspection team chose a selection of training records to examine. In that examination one individual was identified as lacking the required training. Rubicon is required to meet the training requirements laid out in 40 CFR §265.16, which requires all employees which handle hazardous waste to be adequately trained to do their job safely without endangering themselves, their coworkers, and the environment. Training requirements go further to say that each employee must be annually reviewed for training and in some cases recertifications must be acquired. During this inspection of records, only a subset of employees was viewed. Rubicon should re-examine its training program to ensure all employees are adequately trained and maintain the appropriate training for their respective job description. Rubicon should examine 40 CFR §265.16 and ensure each employee is trained properly.

Within forty-five (45) days of receipt of this letter, EPA requests that Rubicon provide information demonstrating that the necessary corrective actions have been taken and that procedures are in place to prevent recurrence. Rubicon's written submission should be accompanied by the following certification signed by a "responsible official":

> "I certify that the information contained in or accompanying this submission is true, accurate and complete. As to those identified portions of this submission for which I cannot personally verify the truth and accuracy, I certify as the company official having supervisory responsibility for the person(s) who, acting upon my direct instructions, made the verification, that this information is true, accurate, and complete."

For the purpose of this certification, a "responsible official" means a person with the authority to bind Rubicon as to the truth, accuracy and completeness of all certified information.

While EPA is not contemplating additional enforcement action at this time, nothing precludes additional enforcement action by the Agency. EPA will use the information gained in this matter for future compliance evaluations.

Please direct all correspondence regarding this warning letter to:

Fred Deppe
Waste Compliance 2 Section (6EN-H2)
Compliance Assurance and Enforcement Division
U.S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733

If you have any questions regarding this warning letter, please contact Fred Deppe at the above EPA address, or by email at deppe.fred@epa.gov, or by phone at (214) 665-7591.

Sincerely,

Mark Potts,
Chief
Waste Enforcement Branch

cc: Mr. Craig Easley
Waste Enforcement Section
Louisiana Department of Environmental Quality