



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

ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Mr. Robert Martin
Quality Consultant
Shurpac, Inc.
1700 Phillips Avenue
Racine, Wisconsin 53403
bobm@shurpac.com

Re: NOTICE OF POTENTIAL VIOLATION AND OPPORTUNITY TO CONFER
Description of Potential Areas of Concern
Facility ID Number: WID009812579

Dear Mr. Martin:

On November 2, 2021, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Shurpac, Inc., facility (hereinafter "Shurpac") located in Racine, Wisconsin. As a generator of hazardous waste, Shurpac is subject to RCRA. The purpose of the inspection was to evaluate Shurpac's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste. The inspection report was previously provided to you in an email on December 13, 2021.

Information currently available to EPA suggests that Shurpac 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.

During the inspection, EPA observed several potential areas of concern as described below. The description of potential areas of concern is not a final determination regarding the Facility's compliance with RCRA. EPA requests 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 areas of concern described below. We also ask that you voluntarily provide responses to the question(s) found in the "Additional Information" section below. EPA may take additional actions if you choose not to respond. After 30 days, EPA will notify you of any further action.

AREAS OF CONCERN

During the inspection, EPA observed the following potential areas of concern:

1. Waste Determinations

Under Wis. Admin. Code § NR 662.011, a person who generates a solid waste must determine if that waste is a hazardous waste using the following method:

- (1) Determine if the waste is excluded from regulation;
- (2) Determine if the waste is listed as a hazardous waste in Wis. Admin. Code subch. D of ch. NR 661 (lists of hazardous wastes);
- (3) Determine any characteristics of the waste per Wis. Admin. Code subch. C of ch. NR 661 (characteristics of hazardous wastes); and,
- (4) Determine any additional restrictions or exclusions pertaining to management of the waste.

At the time of the inspection, Shurpac was operating a wastewater treatment system (WWTS) that managed wastewaters generated from, among other things, chemical conversion coatings on aluminum substrates. After treatment, the WWTS generated a sludge in the form of filter cake. Shurpac analyzed the sludge for characteristics and determined that the waste was non-hazardous (profile number 2649). Shurpac, however, failed to determine if this filter cake was listed as a hazardous waste under the F019 listing.

Additionally, at the time of the inspection, Shurpac was operating paint booths which were equipped with filters to capture overspray. Per the paint-related materials and paint solids profiles (profile numbers 0154 and 2193, respectively), paints used in the facility may contain ingredients such as methyl ethyl ketone and barium (in the form of barium sulfate). Shurpac burns the filters in an on-site burn-off oven. Shurpac did not provide a profile for this wastestream. Shurpac failed to determine if the filters were characteristically hazardous prior to burning.

2. Date When Each Period of Accumulation Begins

Under Wis. Admin. Code § NR 662.034(1)(b)¹, a generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins.

At the time of the inspection, three 55-gallon drums containing spent paint-related wastes were located near a distillation unit. Wastes in these containers were to be distilled. The containers were missing the required start date of accumulation.

¹ We note that effective September 1, 2020, the State of Wisconsin promulgated revised regulations, which have not yet been authorized by EPA and cannot be enforced by EPA. The 2006 edition of Wisconsin's hazardous waste regulations has been authorized by EPA and remains enforceable by EPA.

3. Use and Management of Containers – Weekly Inspections

Under Wis. Admin. Code NR s. 662.034(1)(a)1. and 665.0174, a generator shall inspect at least weekly areas where containers of hazardous waste are stored.

At the time of the inspection, Mr. Mandli, the Vice President of Shurpac, stated that employees were not instructed to conduct inspections in the storage area near the distillation unit. Mr. Mandli also stated that inspections of the storage area by the dock at the west end of the facility had not been conducted in at least one year. Existing records of inspections for the storage area by the dock were consistently dated with the day and month of the inspection, but not with the year of inspection.

4. Training

Under Wis. Admin. Code §§ NR 662.034(1)(d) and 665.0016(1)(a)(3) and (4), a large quantity generator of hazardous waste must have a program of classroom instruction or on-the-job training that teaches facility personnel whose duties include hazardous waste management to perform their duties in a way that ensures the facility's compliance with requirements of RCRA. This training must be provided within six months of employment and annually thereafter. With respect to this training program, a large quantity generator must maintain records documenting that the training or job experience described above has been given to and completed by applicable facility personnel.

At the time of the inspection, Shurpac did not maintain records documenting annual RCRA training given to and completed by applicable facility personnel for the years 2018 through 2021.

5. Hazardous Waste Recordkeeping and Reporting

Under Wis. Admin. Code § NR 662.041(1), a generator that ships any hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and submit an annual report to the Wisconsin Department of Natural Resources by March 1st for the preceding calendar year.

In February, 2017, Shurpac shipped 3,000 pounds of “Oil-containing caustic cleaner” with a D002 waste number on a hazardous waste manifest but did not prepare and submit an annual report to the Wisconsin Department of Natural Resources by March 1, 2018 for the year 2017.

6. Universal Waste Requirement

A small quantity handler of universal waste lamps must:

- (1) Contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage and compatible with the content of the lamps. The containers and packages shall remain closed and shall lack evidence of leakage, spillage, or damage that could cause leakage. See Wis. Admin. Code NR s. 673.13(4);

- (2) Label or clearly mark each lamp or a container or package in which such lamps are contained with any one of the following phrases: “Universal Waste-Lamps,” “Waste Lamps” or “Used Lamps.” See Wis. Admin. Code NR s. 673.14(5).
- (3) Accumulate universal waste for no longer than one year from the date the universal waste is generated unless the generator proves that the activity is solely for the purpose of accumulation of quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal. See Wis. Admin. Code NR s. 673.15(1) and (2).
- (4) Inform all employees who handle or have responsibility for managing universal waste of proper handling and emergency procedures appropriate to the types of universal waste handled at the facility. See Wis. Admin. Code NR s. 673.16.

At the time of the inspection, Shurpac was accumulating used lamps in a wooden crate. The crate was open and was not labeled with the phrase “Universal Waste-Lamps,” “Waste Lamps” or “Used Lamps.” According to records available to EPA, the most recent shipment of universal waste was made on August 30, 2019, more than two years prior to the inspection. Aside from a shipping document, Shurpac was not using any other method to record the start date of generation for the used lamps. Shurpac did not provide evidence that the company was storing the lamps solely for the purpose of facilitating recovery, treatment, or disposal. Lastly, according to Mr. Mandli, employees were not provided with training for universal waste management.

ADDITIONAL INFORMATION

At the time of the inspection, EPA did not request to review the facility contingency plan required under Wis. Admin. Code subch. D. Please provide a copy of the plan with your response.

ACTIONS REQUESTED

By no later than 30 calendar days from the date of this letter, you should provide information documenting the actions, if any, which you have taken since the inspection to address the identified potential areas of concern, as well as any additional information requested.

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 Brenda Whitney, explaining the specific impacts on your ability to respond.

Send all responses requested by this letter by electronic mail to Brenda Whitney at whitney.brenda@epa.gov and to r5lecab@epa.gov.

The subject line of all email correspondence must include Shurpac’s EPA Identification Number (WID009812579). 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 Ms. Whitney 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 Brenda Whitney. You may contact Ms. Whitney at (312) 353-4796 or at whitney.brenda@epa.gov if you have additional questions. Should you have questions of a legal nature, please contact James Cha at (312) 886-0512 or at cha.james@epa.gov. Thank you for your prompt attention to these concerns and for your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris, Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Michael Ellenbecker, WDNR (michael.ellenbecker@wisconsin.gov)
Andrea Keller, WDNR (andrea.keller@wisconsin.gov)
James Cha, EPA Office of Regional Counsel (cha.james@epa.gov)