



REGION 5

CHICAGO, IL 60604

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Ms. Sondra Klipp, Environmental Manager
Evonik Corporation
900 South Palm Street
Janesville, Wisconsin 53547
sondra.klipp@evonik.com

Re: **Warning Letter: Notice of Violations**
Evonik Corporation
WID094361458
Janesville, Wisconsin

Dear Ms. Klipp:

On November 8, 2023, the U.S. Environmental Protection Agency conducted an RCRA compliance evaluation inspection of the Evonik Corporation ("Evonik" or "you") located in Janesville, Wisconsin. The purpose of the inspection was to evaluate Evonik's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste¹. An inspection report was emailed to you on January 5, 2024. Subsequent to receiving the inspection report, you emailed responsive information ("Inspection Response") to EPA on January 15, 2024.

According to information currently available to EPA, Evonik is 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 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 any additional actions which you have taken since the inspection to address the violations identified below, or demonstrating why the violations were cited in error. At this time, EPA is not planning to take additional enforcement actions under RCRA in response to the violations identified in this letter, provided Evonik demonstrates it is in full compliance with RCRA. EPA,

¹ We note that effective September 1, 2020, the State of Wisconsin promulgated revised regulations which have not yet been authorized by EPA. EPA authorized the 2006 edition of Wisconsin's hazardous waste regulations which contained a provision at Wis. Admin. Code s. NR 662.034 (2006) that remains the RCRA authorized Large Quantity Generator provision in Wisconsin.

however, reserves its right to take additional actions under RCRA including, issuing an information request, seeking a penalty, and issuing an order.

PART 1 – Generator Conditions for a License Exemption

During the inspection, EPA observed Evonik's failure to comply with generator conditions for an exemption from the requirement to obtain a RCRA license, which is applicable to certain hazardous waste treatment, storage, and disposal facilities (TSDFs). Upon failure to comply with any condition for a license exemption, a generator is an unlicensed operator of a TSDF in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and of State Licensing Requirements Wis. Admin. Code ss. NR 670.001(3) and 670.010(4)-(6).

Many of the RCRA license exemption conditions are also independent requirements that apply to TSDFs. When a hazardous waste generator loses its RCRA license exemption due to a failure to comply with an exemption condition incorporated from the requirements for TSDFs in Wis. Admin Code ch. NR 665, the generator: (1) is an unlicensed operator of a TSDF (as mentioned above); and (2) simultaneously violates the corresponding TSDF requirement. EPA recommends that Evonik comply with the license exemption conditions in items 1-4 below instead of applying for a hazardous waste storage license.

1. Use and Management of Containers

Under Wis. Admin. Code ss. NR 662.034(1)(a)1 and 665.0173(1), a large quantity generator must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste.

At the time of the inspection, at least two of the cubic-yard sacks of salts that were characterized as ignitable hazardous waste were left open when waste was not being added or removed.

In the Inspection Response, Ms. Klipp provided records demonstrating that the containers have since been closed. Evonik has also now conducted training of employees on the proper closure requirements of the ignitable salt cubic-yard sacks and has begun to include checking for proper closure during weekly inspections. **EPA is not requesting any further information for this violation.**

2. Training

Under Wis. Admin. Code ss. NR 662.034(1)(d) and 665.0016(1)(a) and (4)(d), 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 and that personnel take part in an annual review of the training.

At the time of the inspection, the following individuals, who were listed as emergency coordinators, had last received training in 2021: Ken Hoffman, David Ausloos, and Stephen Abbott.

In Evonik's Inspection Response, Ms. Klipp provided the required training information for each of the individuals above. **EPA is not requesting any further information for this violation.**

3. Contingency Plan Requirement

Under Wis. Admin. Code ss. NR 662.034(1)(d) and 665.0052(3), the contingency plan must include a description of the arrangements agreed to by the police, fire, hospitals, and emergency response teams to coordinate emergency services.

At the time of the inspection, a description of the arrangements agreed to by emergency response entities was not included in the plan.

In Evonik's Inspection Response, Ms. Klipp stated, "We have been meeting with emergency responders identified in our Contingency Plan to define and document the arrangements in place with all responders noted in the inspection report."

EPA is requesting that Evonik provide a copy of the final documentation of the arrangements in the contingency plan.

4. Contingency Plan Requirement

Under Wis. Admin. Code ss. NR 662.034(1)(d) and NR 665.0056(8)(b) the contingency plan must require the emergency coordinator to ensure the following occurs in an event of a fire, explosion, or discharge of hazardous wastes, that emergency equipment is clean and fit for use prior to resuming operations.

At the time of the inspection, a statement indicating that emergency equipment will be clean and fit for use prior to resuming operations was missing from the plan.

EPA is requesting that Evonik provide documentation of this update to the Contingency Plan.

PART II - Other Violations

5. Hazardous Waste Determination

Under Wis. Admin. Code s. NR 662.011, a generator must determine whether its waste is hazardous.

At the time of the inspection, there were six 5-gallon buckets next to the Used Oil tank. None of the buckets were labeled to indicate their contents, and facility representatives did not know what was in the buckets at that time.

In Evonik's Inspection Response, Ms. Klipp stated that they had since determined the buckets contained used oil from maintenance from a recent transfer and they had been removed (photos were included with the email). **EPA is not requesting any further information for this violation.**

6. Universal Waste Requirement

Under Wis. Admin. Code s. NR 673.13(4)(a), a small quantity handler of universal waste lamps must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

Under Wis. Admin. Code s. NR 673.14(5), a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)."

At the time of inspection, one box of 8-foot lamps on a shelf was open and was not labeled. The box was marked from 12/1/21. In Evonik's Inspection Response, Ms. Klipp provided information, which addressed each of the items described above. **EPA is not requesting any further information for these violations.**

7. Universal Waste Requirement

Under Wis. Admin. Code s. NR 673.15(1), universal waste must be accumulated for less than one year from the date generated or received from another handler.

At the time of inspection, there was observed two small plastic totes labeled as "Fluorescent Bulbs" and "HID Bulbs" that contained used lamps. The totes were marked with start dates of accumulation from 5/24/22 and 7/13/22. In Evonik's Inspection Response, Ms. Klipp provided information, which addressed each of the items described above. **EPA is not requesting any further information for this violation.**

PART III - Actions Requested

In order to ensure compliance, by no later than 30 calendar days after receipt of this letter, please provide information documenting the actions, if any, which you have taken since the inspection to address the identified violations or demonstrating why the violation(s) have not occurred.

Please send all reports requested by this letter by electronic mail to whitney.brenda@epa.gov and R5LEcab@epa.gov.

The subject line of all email correspondence must include Evonik's EPA Identification number: WID094361458. 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 her at whitney.brenda@epa.gov or at (312)-353-4796 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: Michael Ellenbecker, WDNR (michael.ellenbecker@wisconsin.gov)
Andrea Keller, WDNR (andrea.keller@wisconsin.gov)