



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Floyd Vestal
Vice President
Davies Imperial Coatings, Inc.
1275 State Street
Hammond, Indiana 46320
fvestal@daviesimperial.com

Re: **Warning Letter: Notice of Violation and Return to Compliance**
Davies Imperial Coatings, Inc.
Facility ID IND 047 023 197
Hammond, Indiana

Dear Mr. Vestal:

On May 18, 2023, the U.S. Environmental Protection Agency conducted an RCRA compliance evaluation inspection Davies Imperial Coatings, Inc. ("DICI" or "you") located in Hammond, Indiana. The purpose of the inspection was to evaluate DICI's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. We have enclosed a copy of the inspection report for your convenience. Information currently available to EPA suggests that DICI is in violation of RCRA. During the inspection, as observed by EPA, and as documented in the EPA inspection report, you took certain actions to establish compliance with the identified violation. Based on the information, EPA does not plan additional enforcement action under RCRA at this time in response to the violation identified in this letter.

Storage of Hazardous Waste without a Permit or Interim Status Which Violated Section 3005 of RCRA, 42 U.S.C. § 6925(a) and State Permitting Requirements

During the inspection, EPA observed DICI's failure to comply with the RCRA permit exemption condition, 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 (I.A.C.) 3.1-13-3 and 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 I.A.C. 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. EPA is not recommending you apply for a hazardous waste storage permit since compliance has been established with the condition below.

1. Contingency Plan

Under 329 I.A.C. 3.1-7-1 and 329 I.A.C. 3.1-10-1 [40 C.F.R. § 262.34(a)(4) and 40 C.F.R. § 265.52(d)], the contingency plan must list names, addresses and phone numbers of all persons qualified to act as emergency coordinators and this list must be kept up to date. Where more than one person is listed, one must be named as primary emergency coordinator and the others must be listed in the order in which they will assume responsibility as alternates.

At the time of an inspection, the plan included a DICI employee that should not have been listed as an emergency coordinator. In addition, the contingency plan did not specify the emergency coordinators in order of primary and alternates.

During the inspection on May 18, 2023, DICI updated the contingency plan to include the correct employees as the facility's primary and alternate emergency coordinators.

This letter is to inform you that EPA, based on the actions you took during the inspection, does not plan additional enforcement action under RCRA at this time. This letter does not limit the applicability of the requirements evaluated, or of other federal or state statutes or regulations. EPA and the Indiana Department of Environmental Management (IDEM) will continue to evaluate your facility in the future.

The EPA contact in this matter is Dan Martinez. You may contact him at (312) 886-6128 or via email at martinez.daniel@epa.gov 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

Enclosure

cc: Jennifer Reno, IDEM (jreno@idem.in.gov)