



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Rick Hersemann
NEPA Compliance Officer
U.S. Department of Energy
Wilson Road
Batavia, Illinois 60510
Rick.Hersemann@science.doe.gov

Re: **Notice of Violation**
Fermi National Accelerator Laboratory
Batavia, Illinois
Facility ID: IL6890030046

Dear Mr. Hersemann:

On April 19-20, 2023, and July 24, 2024, the U.S. Environmental Protection Agency conducted Resource Conservation and Recovery Act ("RCRA") compliance evaluation inspections of the Fermi National Accelerator Laboratory ("Fermilab," "facility," or you") located in Batavia, Illinois. The purpose of the inspections were to evaluate Fermilab's compliance with Fermilab's RCRA permit as well as certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. We have enclosed copies of the inspection reports for your convenience.

Information currently available to EPA suggests that Fermilab 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 violation.

We request 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 violations identified below or demonstrating why the violation(s) have not occurred. At this time, EPA does not plan additional enforcement action under RCRA in response to the violations identified in this letter assuming Fermilab demonstrates full compliance. EPA, however, reserves its right to take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order.

1. Universal Waste Lead Batteries

Under Ill. Admin. Code tit. 35 § 733.135 (a) and 40 CFR 273.35(a), a large quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated or received from another handler. At the time of the inspection on July 24, 2024, Fermilab had multiple pallets of universal waste lead batteries with accumulation start date years of 2021-2022 at Site 55 Hazardous Waste Storage Facility, WS-1. Please see Reference #: JC4-OB-001 and photos R0010031.JPG through R0010050.JPG of the enclosed inspection report for 2024, and Section V – Areas of Concern #2 and Photographs 27-29, 30, and 31 of the enclosed inspection report for 2023.

2. Universal Waste Lamps Requirement

Under Ill. Admin. Code tit. 35 § 733.133(d)(1) and 40 CFR 273.33(d)(1), a large quantity handler of universal waste must contain any lamp in in containers and packages that are structurally sound and adequate to prevent breakage. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions. At the time of the inspection on July 24, 2024, Fermilab had multiple open boxes of 8-foot lamps open in the Site 55 Shed. Please see Reference #: JC4-OB-010 and photos R0010055.JPG through R0010059.JPG of the enclosed 2024 inspection report.

During the inspection, in an email on August 8, 2024, Fermilab provided a photograph of the boxes now properly stored in closed and sealed boxes, which addressed the item described above. EPA is not requesting any further information for this violation.

3. Incompatible Wastes

Under Ill. Admin. Code tit. 35 § 722.277(c), a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device. At the inspection on April 19, 2023, Fermilab had stored aqueous acidic and aqueous basic/alkaline waste side-by-side. Please see Section V – Areas of Concern #3 and Photographs 33-35 of the enclosed 2023 inspection report.

During the inspection on July 24, 2024, US EPA inspectors found that the incompatible wastes were no longer being stored in nearby containers, which addressed the item described above. EPA is not requesting any further information for this violation.

4. Closure Plan

Permit Requirement 55 (a) requires that the Permittee's original closure cost must be adjusted for inflation 60 days prior to the anniversary of the establishment of the financial instrument(s) used to comply with closure requirements. During the inspection on July 24, 2024, the closure plan was found to be updated for inflation up to 2022. Please see Reference #: JC4-RR-010 of the enclosed inspection report for 2024.

After the inspection, in an email on August 7, 2024, Fermilab provided an updated Closure Cost Estimate with costs updated for inflation through 2024, which addressed the item described above. EPA is not requesting any further information for this violation.

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 has not occurred. You do not need to provide documentation regarding violations that you addressed during or after the inspection as noted above.

Please send all reports requested by this letter by electronic mail to:

R5LE CAB@epa.gov

and

Christon.Josephine@epa.gov

The subject line of all email correspondence must include your EPA identification number, IL6890030046. 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 Josephine Christon 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 Josephine Christon. You may email her at Christon.Josephine@epa.gov or call her at (312) 353-5592 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: Nolin Moon, Illinois EPA Nolin.Moon@illinois.gov
Chris Cahnovsky, Illinois EPA Chris.Cahnovsky@illinois.gov
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