



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

ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Mr. Bryant Pepin
Lab Manager
Technical Marketing Company
1423 Mill Lane
Waconia, Minnesota 55387
bryant@tmcindustries.com

Re: **Notice of Potential Violation and Opportunity to Confer**
Technical Marketing Company
EPA I.D. No.: MNR000056150

Dear Mr. Pepin:

On March 1, 2021 the U.S. Environmental Protection Agency issued a request for information under Section 3007 of Resource Conservation and Recovery Act ("RCRA"), as amended, 42 U.S.C. § 6927 to the Technical Marketing Company ("TMC," "facility" or "you") located in Waconia, Minnesota. The purpose of the request was to evaluate TMC's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment and storage of hazardous waste. TMC responded to the request on March 24, 2021.

EPA has reviewed the information in the above-referenced response. Information currently available to EPA suggests that TMC 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.

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

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

Based on TMC's response to the request for information, EPA observed TMC's failure to comply with a RCRA permit exemption condition identified 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 Minn. R. 7001.0030; 7001.0520 Subpart 1 (A); 7001.0530; 7001.0550 [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 Minn. R. 7045.0292, Subpart 1, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement.

For purposes of remedying potential noncompliance or preventing future violations, EPA recommends that TMC comply with the condition below instead of applying for a hazardous waste storage permit. The permit exemption condition identified below is also an independent TSD requirement:

1. Training

Under Minn. R. 7045.0292, Subpart 1.G. and 7045.0558, 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. This program must be directed by a person trained in hazardous waste management procedures and must include instruction that teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed. Facility personnel must successfully complete this training program within six months after the date of their employment or assignment to a facility or to a new position at a facility and must take part in an annual review of this initial training thereafter.

TMC provided records that document the initial training date for Mike Shifter was on January 13, 2021, 14 years after their hired date of July 17, 2007.

TMC provided records that document the initial training date for Peter Toland was on December 8, 2020, 3 years after their hired date of December 16, 2017.

TMC provided records that document the initial training date for Kyle Stum was on November 4, 2020, 17 months after their hired date of June 24, 2019.

TMC provided records that document the initial training date for Milena Souza was on November 4, 2020, 15 months after their hired date of August 16, 2019.

TMC provided records that document the initial training date for David Pereina was on November 4, 2020, 10 months after their hired date of January 16, 2020.

TMC provided records that document the initial training date for Justin Barthel was on December 8, 2020, nine months after their hired date of March 30, 2020.

TMC provided records that document the initial training date for Dan Kelley was on November 4, 2020, 8 months after their hired date of March 10, 2020

TMC provided records that document the initial training date for Chris Count was on December 12, 2018, 8 months after their hired date of April 5, 2018, and no annual training in 2019.

TMC provided records that document the initial training date for Nick Hansen was on December 15, 2019, 11 months after their hired date of January 16, 2019, and no annual training for 2020.

Actions Requested

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

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

r5lecab@epa.gov

and

burrus.sheila@epa.gov

The subject line of all email correspondence must include MNR000056150. 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 Sheila Burrus, of my staff, to make additional arrangements for transmission of the response.

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 Sheila Burrus at burrus.sheila@epa.gov, explaining the specific impacts on your ability to respond.

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 Sheila Burrus. You may call her at (312) 886-3587 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
HARRIS

 Digitally signed by
MICHAEL HARRIS
Date: 2021.04.07
14:43:02 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Mr. John Elling, MPCA (john.elling@state.mn.us)