



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Makayla Jacobs
Environmental, Health, and Safety Engineer
Fincantieri Marinette Marine
1600 Ely Street
Marinette, Wisconsin 54143
Makayla.Jacobs@us.fincantieri.com

Re: **Notice of Violation**
EPA Identification No.: WID006135388

Dear Makayla Jacobs:

On May 7, 2024, the U.S. Environmental Protection Agency conducted a Resource Conservation and Recovery Act compliance evaluation inspection of Fincantieri Marinette Marine ("facility" or "FMM") located in Marinette, Wisconsin. The purpose of the inspection was to evaluate FMM's compliance with certain provisions of RCRA and its implementing regulations¹ related to the generation, treatment, and storage of hazardous waste. An inspection report was emailed to you on July 1, 2024.

Information currently available to EPA suggests that FMM 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 the actions, if any, which you have taken since the inspection to address the violations identified below or demonstrating why the violations have not occurred. EPA, however, reserves its right to take additional actions under RCRA including issuing an information request, seeking a penalty, and issuing an order.

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.

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

During the inspection, EPA observed FMM's failure to comply with the RCRA license exemption conditions, below. When a hazardous waste generator fails to comply with the requirements for a license exemption, the generator is an operator of a hazardous waste storage facility without a license in violation of Wis. Admin. Code ss. NR 670.001(3) and 670.010(4)-(6). For purposes of remedying noncompliance or preventing future violations, EPA recommends that FMM comply with the conditions below instead of applying for a hazardous waste storage license.

1. Date When Each Period of Accumulation Begins

Under Wis. Admin. Code s. NR 662.034(1)(b), a large quantity 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, one 18-gallon container labeled as "Hazardous waste" and "Waste Aerosols" stored in the 50/50 Waste Storage Area (90-day accumulation area) was not marked with a start date of accumulation.

2. Training

Under Wis. Admin. Code ss. NR 662.034(1)(d) and 665.0016(1)(a), 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. With respect to this training program, affected personnel must successfully complete the program within six months after the effective date of these regulations or six months after the date of their employment to a facility, whichever is later. See, Wis. Admin. Code s. NR 665.0016(2).

At the time of the inspection, Tom Carow and Christian Dirocco, who are designated as emergency coordinators in the contingency plan, had not been trained as described above.

In an email to EPA dated May 8, 2024, Makayla Jacobs stated that these employees would undergo training within 30 days. EPA is requesting documentation of completed training by these individuals.

3. Weekly Inspections

Under Wis. Admin. Code ss. NR 662.034(1)(a)1. and 665.174, a large quantity generator of hazardous waste must inspect areas where containers are stored at least weekly.

At the time of the inspection, the 50/50 Waste Storage Area was not included in the written inspection schedule that was used at the facility. In an email to EPA dated May 8, 2024, Makayla Jacobs stated, "I have never filled out an inspection sheet for the 50/50, I look at the 50/50 often but there is no formal inspection."

4. Air Emissions Requirements for Containers

Under Wis. Admin. Code ss. NR 662.034(1)(a)1. and 665.1083(2), a hazardous waste that has an average volatile organic concentration at the point of waste origination of greater than 500 parts per million by weight is subject to air emission controls. A container that is used to meet the air emissions controls requirements shall be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere. The owner or operator shall secure and maintain each closure device in the closed position except when adding or removing wastes, or during other routine activities. See Wis. Admin. Code s. NR 665.1087(3)(b) and (c).

At the time of the inspection, two 55-gallon containers that were labeled “Hazardous Waste” and were located in a 90-day accumulation area in the paint storage room in Building 31, were collecting used thinner that was to be distilled. Plastic funnels with loose-fitting covers had been placed in the bung holes of the containers. The covers were not gasketed or able to seal upon closing.

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, FMM did not appear to have determined whether the following items stored in the 50/50 Waste Storage Area were hazardous wastes:

- 55-gallon drum containing a small volume of unknown material (located outside of the 50/50 Hazardous Waste Storage Area);
- Garbage bag labeled only as “Hazardous Waste.” The contents of this bag were unknown at the time of the inspection;
- Two bottles of discarded chemicals less than one quart in size;
- A plastic spill pallet partially filled with an unidentified black tarry substance;
- One 55-gallon drum marked as “Light Bulbs” with a blue “X” spray-painted on the side;
- Two 5-gallon buckets of hand sanitizer;
- Two lead-acid batteries, which were not marked to indicate how they would be managed (i.e., as universal waste, as hazardous waste, or as exempt from hazardous waste requirements under Wis. Admin. Code Chapter NR 666, Subchapter G); and
- One 5-gallon bucket of unidentified material stored on the bottom shelf.

In an email to EPA dated May 8, 2024, Makayla Jacobs noted that the “Garbage Bag” contained oily absorbents and was managed as non-hazardous waste. EPA is requesting responses for the remaining wastes that include determinations/profiles as well as the current management of the material on-site or the disposition of the material off-site.

6. Universal Waste Requirement

Under Wis. Admin. Code s. NR 673.13(4), a small quantity handler of universal waste shall contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. The containers and packages shall, among other things, remain closed.

At the time of the inspection, universal waste was being stored in the 50/50 Waste Storage Area. FMM failed either to contain or to keep containers closed in the following instances:

- One 2-foot lamp, one bundle of three 2-foot lamps, and one bundle of five 4-foot lamps were not contained; and
- Two boxes of 2-foot lamps were not closed.

Under Wis. Admin. Code s. NR 673.14(5), a small quantity handler of universal waste must 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."

At the time of the inspection, the following containers of used lamps were not labeled as prescribed above:

- Two cardboard cylinders for 4-foot lamps; and
- Two boxes of 2-foot lamps.

The items noted above were addressed at the time of the inspection. EPA is not requesting any additional information to address these violations.

Area of Concern

At the time of the inspection, secondary containment in the 50/50 Waste Storage Area exceeded capacity. Though secondary containment is not required under RCRA in the state of Wisconsin, it is a best management practice and should be emptied regularly to maintain available capacity.

Actions Requested

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 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 also to Brenda Whitney at whitney.brenda@epa.gov:

The subject line of all email correspondence must include your EPA Identification Number: WID006135388. 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 Brenda 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.

Contact Brenda Whitney at (312) 353-4796 or at whitney.brenda@epa.gov if you have questions pertaining to this notice. Thank you for your prompt attention to these concerns and for your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

Enclosure

cc: Michael Ellenbecker, WDNR (michael.ellenbecker@wisconsin.gov)
Andrea Keller, WDNR (andrea.keller@wisconsin.gov)