UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Via Electronic Mail August 23, 2021

Adam Musulin, Environmental Manager
Ball Metal Beverage Container Corp.
140 Industrial Drive
Pittston, PA 18640
amusulin@ball.com

Re: Request for Information Pursuant to Section 3007(a) of the Resource Conservation and Recovery Act, 42 U.S.C. § 6927(a), Regarding Generation and Management of Hazardous Waste by Ball Metal Beverage Container Corp.
EPA ID No. PAD042094938
Reference Number: C21-036

Dear Mr. Musulin,

The U.S. Environmental Protection Agency, Region III ("EPA") is requesting to supplement information obtained through its records review of Ball Metal Beverage Container Corp. located in Pittston, PA ("BMBC" or "the Facility"). As a generator of hazardous waste, BMBC is subject to Sections 3002 and 3010 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §§ 6901 *et seq.*, the federal hazardous waste regulations set forth at 40 C.F.R. Parts 260-266, 268 and 270-273 and the authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWR"), 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a.

Based on information obtained during EPA's records review of the Facility, BMBC is identified as a RCRA "Small Quantity Generator". However, according to e-Manifest data listed in Attachment 1, at least once within the last five (5) calendar years, BMBC generated hazardous waste in quantities greater than 1,000 kilograms per calendar month, which indicates BMBC may be a "Large Quantity Generator" as established under the authorized regulations.

EPA is requesting this information pursuant to the authority granted to it under Section 3007(a) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927(a), which provides in relevant part that "any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled hazardous wastes shall, upon request of any officer, employee or representative of the Environmental Protection Agency, duly designated by the Administrator, . . . furnish information relating to such wastes . . . ." EPA hereby requires that you furnish to EPA, within **twenty-one (21) calendar days** of receipt of this letter, the information requested below, including all documents responsive to such request.

For each and every request, if you have any reason to believe that there may be a person(s) who may be able to provide a more detailed or complete response to such request or provide additional responsive documents, then as a part of your response to such request, identify each such person and the additional information or documents which such person may be able to provide. Furthermore, for each and every response, if information or documents responsive to such request are not in your possession, custody or control, then as part of your response to such request, identify each person from whom such information or documents may be obtained.

Please provide a separate narrative response to each information request. Precede each answer with the number of the question or letter of the subpart of the request to which it corresponds. A request for documents shall be construed as a request for any and all documents maintained by you or in your custody, control, or possession or in the possession, custody or control of any of your employees or agents, relating to the matters described below. All copies of documents submitted to EPA in response to the following requests must be complete and legible.

As used herein, the term "document" means: writings (electronic or hard copy, handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phonograph records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer print outs, or other data compilations from which information can be obtained or translated.

All other terms used in this request for information that are defined in RCRA, 42 U.S.C. §§ 6901 *et seq.*, 40 C.F.R. Parts 260-266, 268, and 273 and the authorized Pennsylvania Hazardous Waste Management Regulations ("PaHWR"), 25 Pa. Code Ch. 260a-266a, 266b, and 268a-270a.

Please provide the information requested below:

Requested Information

1. Regarding the Facility's process and waste generation:

    a. Please describe in detail the Facility's manufacturing and waste generation processes, including a description of raw materials, all waste streams (hazardous and nonhazardous), and finished products.

    b. Does the Facility track the amount of each waste stream it generates over time? If so, (1) please explain how the Facility measures that amount and (2) state how often such measurements are taken, for example daily, weekly, monthly, or for some other predetermined period of time.

    c. Please state, as precisely as possible, how much of each waste stream has been generated by the Facility in each calendar month for the time period of August 1, 2018 up to the present and provide the basis of your knowledge. If you cannot state the amounts on a monthly basis, please state how much of each waste stream has been generated during the smallest intervals (e.g., daily, weekly) for which you are capable of providing such information.

d. Please provide records documenting monthly hazardous waste generation rates at the Facility.

2. Regarding a Facility contingency plan that describes the actions Facility personnel must take in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste, including the requirements set forth at 40 C.F.R. 265.50, please provide the following information:

   a. Please state "yes" or "no": Did the Facility have a documented contingency plan in effect at the time of August 20, 2018?

      i. If "yes", please submit a copy of the contingency plan that was in effect at August 20, 2018 and state the date that it was completed and in effect.

      ii. If "no", please submit a copy of the contingency plan currently in effect at the Facility and indicate the date it was completed and in effect.

3. Regarding conducting and documenting inspections of hazardous waste accumulation areas ("HWAAs") located at the Facility, as required by 40 C.F.R. 265.174, please provide the following information:

   a. Describe each HWAA used to accumulate hazardous waste at the Facility. Include a description of how the waste is stored (i.e. metal 55-gallon drums, polypropylene 250-gallon totes, etc.) and a site plan depicting the location(s) of each HWAA.

   b. With respect to each of the HWAAs located at the Facility, does the Facility inspect containers being stored in the HWAAs for leaking containers and deterioration of the containers caused by corrosion or other factors?

   c. If you answered "yes" to Question 3.b., above, please state how often the inspections are conducted.

   d. If you answered "yes" to Question 3.b., above, provide the first and last name of each person at the Facility who is or was responsible for conducting the inspections of the Facility's HWAAs for the time period of August 1, 2018 up to the present.

   e. Submit a copy of any and all inspection logs maintained by the Facility for the HWAAs for the time period of August 1, 2018 up to the present.

4. Regarding the Facility's hazardous waste training program for which requirements are described in 40 C.F.R. § 265.16, please provide the following information:

   a. Provide the first and last name of each employee at the Facility who is or has been responsible for the handling and/or management of hazardous waste for the time period of August 1, 2018 up to the present. This would include, but not be limited to, persons responsible for the labeling, dating, inspecting, and transporting containers of hazardous waste, in addition to the signing of manifests and Land Disposal Restriction notices, waste determinations, emergency coordinators, and hazardous waste training instructors.

b. Provide the exact dates of employment for each of the employee names provided in your response to Question 4.a. above.

c. Please state "yes" or "no" to the following question: Does the Facility maintain documentation specifying the job title and job description for each employee listed in response to Question 4.a. above? If "yes", please answer the following:

    i. Submit the Facility's documented job titles and written job descriptions for each employee listed in response to Question 4.a.

    ii. For each document submitted in response to Question 4.c.i, above, provide the date each document was first created by the Facility.

d. Please state "yes" or "no" to the following question: Has the Facility provided initial hazardous waste training to each employee listed in response to Question 4.a.? If "yes", please answer the following:

    i. Provide the dates on which initial hazardous waste training was conducted for each of the employees listed in response to Question 4.a. and state the basis of your knowledge.

    ii. Submit any and all records the Facility has maintained to document initial hazardous waste training has been conducted for each employee named in response to Question 4.a. for the time period of August 1, 2018 up to the present.

e. Please state "yes" or "no" to the following question: Has the Facility provided annual refresher hazardous waste training to each employee listed in response to Question 4.a.? If "yes", please answer the following:

    i. Provide the dates on which annual refresher hazardous waste training was conducted for each of the employees listed in response to Question 4.a. for the time period of August 1, 2018 up to the present and state the basis of your knowledge.

    ii. Submit any and all records the Facility has maintained to document annual fresher hazardous waste training has been conducted for each employee named in response to Question 4.a. for the time period of August 1, 2018 up to the present.

5. Submit copies of <u>any and</u> <u>all</u> hazardous waste manifests generated by the Facility for the off-site shipments of hazardous waste that occurred from August 1, 2018 to present.

6. Regarding copies of Land Disposal Restriction Notification ("LDR") forms for the off-site shipments of hazardous waste:

    a. Please state "yes" or "no": has the Facility provided LDR forms for each hazardous waste stream shipped offsite to each treatment, storage, and disposal facility ("TSDF") it has shipped to? If yes, provide a copy of all LDR forms.

b. If the Facility generated or retrieved copies of any of the LDR forms from the TSDF (or other off-site provided) subsequent to the receipt of this letter, please also indicate which LDR forms for which this the case and the date(s) when such forms were generated or obtained.

The provisions of Section 3008 of RCRA, 42 U.S.C. § 6928, authorize EPA to pursue penalties for failure to comply with or respond adequately to an information request under Section 3007(a) of RCRA. In addition, providing false, fictitious, or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil or criminal proceedings. **Your response must include the following signed and dated certification:**

> I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.
>
> Signature: _____
> Date: _____
> Name: _____
> Title: _____

With regard to the Small Business Regulatory Enforcement and Fairness Act ("SBREFA"), please see the "Information for Small Businesses" memo, found at https://www.epa.gov/sites/production/files/2017-06/documents/smallbusinessinfo.pdf, which might be applicable to your facility. This enclosure provides information on contacting the SBREFA Ombudsman to comment on federal enforcement and compliance activities and also provides information on compliance assistance. As noted in the enclosure, any decision to participate in such program or to seek compliance assistance does not relieve your facility of its obligation to respond in a timely manner to an EPA request or other enforcement action, create any rights or defenses under law, and will not affect EPA's decision to pursue an enforcement action. To preserve your facility's legal rights, you must comply with all rules governing the administrative enforcement process. The Ombudsman and fairness boards do not participate in the resolution of EPA's enforcement actions. EPA has not made a determination as to whether or not your facility is covered by SBREFA.

Your Facility is entitled to assert a claim of business confidentiality covering any part or all of the information submitted, in a manner described in 40 C.F.R. § 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with 40 C.F.R. Part 2, Subpart B. Unless a claim of business confidentiality is asserted at the time the requested information is submitted, EPA may make this information available to the public without further notice to your facility.

This request for information is not subject to review by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520.

Please send your response **electronically** to:

Andrew Ma (3ED22)
ma.andrew@epa.gov
U.S. Environmental Protection Agency, Region III

If you have any questions concerning this matter, please contact Mr. Ma, Physical Scientist, at 410.305.3429 or ma.andrew@epa.gov.

Sincerely,

Amend, Carol

Digitally signed by Amend, Carol
Date: 2021.08.23 10:03:52 -04'00'

Carol Amend, Chief
Air, RCRA & Toxics Branch
Enforcement and Compliance Assurance Division

Attachment

cc: Andrew Ma (3ED22) w/Attachments
Melissa Gross (PADEP) w/Attachments
Pauline Belgiovane (3ED20) w/o Attachments

ATTACHMENT 1

Manifest Tracking Number	Shipped Date	Waste Codes	Quantity (pounds)
009563171FLE	08-20-2018	D008	45,992
009563166FLE	08-20-2018	D008	45,992
009563170FLE	08-21-2018	D008	45,992
009563169FLE	08-21-2018	D008	45,992
015724326FLE	06-29-2021	D001, F003	75