



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

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Mr. Jason Witzeling
Manufacturing Engineer
Woods Equipment Company
1962 Queensland Drive
Kronenwetter, Wisconsin 54455
jason.witzeling@oregontool.com

Re: Warning Letter - Notice of Potential Violation
EPA Identification No.: WIR000129122

Dear Mr. Witzeling:

On September 22, 2022, the U.S. Environmental Protection Agency conducted a Resource Conservation and Recovery Act (RCRA) compliance evaluation inspection of the Woods Equipment Company ("Woods") located in Kronenwetter, Wisconsin. The purpose of the inspection was to evaluate Woods' compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste. A copy of the inspection report was sent to your attention by electronic mail on October 28, 2022.

Information currently available to EPA suggests that Woods 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 is not planning additional enforcement actions under RCRA in response to the potential violations identified in this letter provided Woods 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.

PART I – GENERATOR CONDITIONS FOR A LICENSE EXEMPTION

During the inspection, EPA observed Woods' potential failure to comply with generator conditions for an exemption from obtaining a RCRA license, which is applicable to certain hazardous waste treatment, storage, and disposal facilities (TSDFs). Upon failure to comply with any condition for a license exemption, a generator is an unlicensed operator of a TSDF in

violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and of State Licensing Requirements Wis. Admin. Code ss. NR 670.001(3) and 670.010(4)-(6).

Many of the RCRA license exemption conditions are also independently violable requirements that apply to TSDFs. When a hazardous waste generator loses its RCRA license exemption due to a failure to comply with an exemption condition incorporated from the requirements for TSDFs in Wis. Admin Code ch. NR 665, the generator: (1) is an unlicensed operator of a TSDF (as mentioned above); and (2) simultaneously violates the corresponding TSDF requirement.

1. Personnel Training

Under Wis. Admin. Code ss. NR 662.034(1)(d)¹ and 665.0016(1)(a) and (4), facility personnel shall successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with RCRA requirements. The facility must maintain records that document that the training or job experience has been given to, and completed by, facility personnel.

At the time of the inspection, Mr. Witzeling and Ms. Gunderson, who are listed as the emergency coordinators for the facility, had not received RCRA-based training in 2021.

2. Satellite Accumulation – Closed Containers

Under Wis. Admin. Code ss. NR 662.034(3)(a)¹ and NR 665.0173(1), a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process that generates the waste without an operating license provided the generator keeps containers closed when not adding or removing wastes.

At the time of the inspection, Woods was accumulating spent paint waste and solvent in a 5-gallon bucket behind the paint booth. The bucket was loosely covered with an unfastened lid that was resting on top and was not closed.

Also, at the time of the inspection, Woods was accumulating spent paint waste and solvent in a 5-gallon bucket inside the paint booth beneath the gun flush box. The bucket was filling at the time of the inspection and did not need to be covered at that time. According to the Mr. Witzeling, however, the bucket is not covered when it is not being filled. A cover should be provided for the bucket when it is not being filled.

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.

PART II - GENERATOR REQUIREMENTS

During the inspection, EPA observed Woods' potential failure to comply with the following independent generator requirements:

3. Waste Determinations – Documentation

Under Wis. Admin. Code s. NR 662.011, a generator must determine whether its waste is hazardous. A generator must maintain documentation to support that determination. See Wis. Admin. Code s. NR 662.040(3).

At the time of the inspection, waste determination documentation for solvent/paint waste consisted of a profile form that was created using generator knowledge. The profile indicates a flash point from 141°F to 200°F (above the threshold for RCRA ignitability), and "Toxic Metals" (D004-D011) were marked as "Not Applicable." In contrast, the primary hazardous waste numbers on the profile include D001 (ignitable), D005 (barium), D006 (cadmium), D007 (chromium), and D008 (lead), in addition to F003/F005 (listings for non-halogenated solvents) and D035 (methyl ethyl ketone). Additionally, trichloroethylene was included as an underlying hazardous constituent on a separate land disposal restriction form for this waste stream. Mr. Witzeling stated that neither lead nor trichloroethylene are used at the facility, and he did not believe either constituent to be in the paints or metal substrates.

EPA specifically requests that Woods provides documentation that supports a consistent and accurate determination of the characteristics and listings of the paint/solvent waste generated at the Woods' facility.

4. 90-Day Accumulation – Marking

Wis. Admin. Code s. NR 662.034(1)(b) states that a generator may accumulate hazardous waste on-site for 90 days or less without an operating license or interim license, provided the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

At the time of the inspection, Woods was accumulating hazardous waste in three clam-shell style containment units, which could each hold up to four 55-gallon drums. Because of the size of the clamshells and positioning of the drums therein, it was not possible to observe the labels, and in particular, the start dates of accumulation on the following containers in two of the clamshells:

Clamshell Position	Drum Position	“Hazardous Waste”	Waste Numbers	Start Date	Hazard Marking
East	Rear Right	Could not see any label			
	Front Left	Yes	Could not see details of the label		
Middle	Rear Left	Yes	Could not see details of the label		
	Rear Right	Could not see any label			
	Front Left	Yes	Could not see details of the label		

Also note from the table above that the entirety of any label on two drums could not be observed and any markings on three labels could not be read due to the position of the drums in the clamshells.

EPA specifically requests that Woods demonstrates an updated storage and/or labeling practice that ensures containers in the 90-day hazardous waste storage area are clearly being labeled and marked for visual inspection during storage.

5. Satellite Accumulation – Marking

Wis. Admin. Code s. NR 662.034(3)(a)2 states that a generator may accumulate as much as 55 gallons of non-acute hazardous waste in containers at or near any point of generation where wastes initially accumulate that is under the control of the operator of the process that generates the waste without an operating license provided the generator marks the container with the words “Hazardous Waste” or other words that identify the contents of the containers.

At the time of the inspection, Woods was accumulating spent paint waste and solvent in a 5-gallon bucket behind the paint booth, in a 5-gallon bucket inside the paint booth beneath the gun flush box, and in a 55-gallon drum that was collecting waste from punctured aerosol cans. None of these three containers was marked to indicate “Hazardous Waste” or the contents of the containers.

PART III – UNIVERSAL WASTE REQUIREMENTS FOR SMALL QUANTITY HANDLERS

During the inspection, EPA observed Woods’ potential failure to comply with the following universal waste small quantity handler requirements:

6. Universal Waste Lamps – Containerization and Labeling

Under Wis. Admin. Code s. NR 673.13(4)(a), a small quantity handler of universal waste lamps must contain any lamp in containers or packages that are structurally sound, adequate to prevent breakage, and compatible with the contents of the lamps. Such containers and packages must remain closed and must lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

Under Wis. Admin. Code s. NR 673.14(5), a small quantity handler of universal waste must label or mark the universal waste to identify the type of universal waste. Each lamp or a container or package in which the lamps are contained must be labeled or marked clearly with one of the following phrases: “Universal Waste – Lamp(s),” or “Waste Lamp(s),” or “Used Lamp(s).”

At the time of the inspection, four boxes of universal waste lamps were propped up against a table located beneath a staircase near the entrance to the office area. One box was broken open on the bottom and the lamps therein were exposed. Also, two of the boxes were not labeled or marked.

PART IV – AREA OF CONCERN

A. Manifest Copies

Under Wis. Admin. Code s. NR 662.040(1), a generator shall keep a copy of each manifest signed in accordance with s. NR 662.023(1) for 3 years or until the generator receives a signed copy from the designated facility which received the waste. This signed copy shall be retained as a record for at least 3 years from the date the waste was accepted by the initial transporter.

Under Wis. Admin. Code s. NR 662.042(2), a generator shall submit an exception report to the department if the generator has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter.

At the time of the inspection, Mr. Witzeling stated that he had not needed to submit any exception reports. He also stated that certain manifests may have been misfiled but were likely received by Woods. Signed copies of the following manifests from the designated facility which received the wastes were not immediately available for review. **If available, provide copies of signed and completed manifests identified below:**

- Manifest 008298529 SKS offered for shipment on 4/28/22 (or possibly 4/25/22);
- Manifest 008298528 SKS offered for shipment on 4/14/22;
- Manifest 007876265 SKS offered for shipment on 2/4/22;
- Manifest 007876478 SKS offered for shipment on 10/27/21;
- Manifest 007876467 SKS offered for shipment on 9/1/21; and,
- Manifest 008298530 SKS offered for shipment on 7/6/22 (signed but not dated).

PART V - 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 potential violations and area of concern or demonstrating why they have not occurred.

The EPA contact in this matter is Brenda Whitney. Please send all information requested by this letter by electronic mail to whitney.brenda@epa.gov and to R5LEECAB@epa.gov. EPA is not accepting paper submittals at this time.

The subject line of all email correspondence must include Woods' EPA Identification Number: WIR000129122. 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 Ms. Whitney to make alternative arrangements for submittal 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.

As noted above, you may contact Ms. Whitney at whitney.brenda@epa.gov or at 312-353-4796 if you have questions about this letter. 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

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