



REGION 5

CHICAGO, IL 60604

October 17, 2024

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Ms. Brittany Kernz
Compliance Manager
Heresite Protective Coatings, LLC
822 South 14th Street
Manitowoc, Wisconsin 54220
Brittany.kernz@heresite.com

Re: **Notice of Violation**
Heresite Protective Coatings, LLC
Facility ID WID006072052

Dear Ms. Kernz:

On August 9, 2023, the U.S. Environmental Protection Agency conducted a Resource Conservation and Recovery Act (RCRA) compliance evaluation inspection of Heresite Protective Coatings, LLC ("facility" or "you"), located in Manitowoc, Wisconsin. The purpose of the inspection was to evaluate Heresite Protective Coatings' compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste. We have enclosed a copy of the inspection report for your convenience.

Information currently available to EPA suggests that Heresite Protective Coatings 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(s). We request that you voluntarily submit a response in writing to us no later than 30 calendar days after receipt of this letter (1) documenting the actions, if any, which you have taken since the inspection to address the violations identified below or (2) demonstrating why the violation(s) has not occurred.

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

During the inspection, EPA observed Heresite Protective Coatings' 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 NR §§ 670.001(3), and 670.010(4)–(6) [40 C.F.R. §§ 270.1(c), and 270.10(a) and (d)]. For purposes of remedying noncompliance or preventing

future violations, EPA recommends that Heresite Protective Coatings comply with the conditions below instead of applying for a hazardous-waste storage license.

1. Satellite Accumulation

Under Wis. Admin. Code § NR 662.034(3)(a), a large quantity generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without an operating license or interim license and without complying with § NR 662.034(1).

At the time of the inspection, Heresite had one container that violated the satellite-accumulation rule. There was a 55-gallon container labeled as “Hazardous Waste” located on the second floor of the facility. This container was accumulating hazardous waste generated from the operation of the Heresite Protective Coatings Lab located on the third floor of the facility. Thus, the 55-gallon drum was not at or near the point of generation where wastes initially accumulate (the third-floor lab), not under the control of the operator generating the waste, and not in the facility’s only 90-day storage area on the first floor. Please see page 7 of the inspection report.

2. Weekly Inspections

Under Wis. Admin. Code §§ NR 662.034(1)(a)(1) and 665.0174, a large quantity generator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.

At the time of the inspection, review of the Heresite Protective Coatings’ weekly inspection records for the 90-day storage area revealed that the facility failed to conduct 12 weekly inspections during the following weeks:

- 02/12/23 to 03/25/23;
- 04/02/23;
- 04/23/23;
- 05/07/23 to 05/27/23; and
- 06/11/23.

3. Satellite Hazardous Waste Container Labeling

Under Wis. Admin. Code § NR 662.034(3)(a)(2), a large quantity generator may accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without an operating license or interim license and without complying with § NR 662.034(1) provided that the generator, among other requirements, marks each satellite container holding hazardous waste with the words “Hazardous Waste” or with other words that identify the contents of the container.

At the time of the inspection, the following containers were missing the required labeling:

- a 55-gallon container accumulating aerosol wastes near the facility's 90-day storage area (first floor);
- a 55-gallon container accumulating coating wastes located in the Small Coil Area (first floor); and
- a 5-gallon container accumulating parts washer waste in the facility's Lab (third floor).

Please see photos 10, 17, and 18 of the enclosed inspection report.

After the inspection, on August 24, 2023, Heresite Protective Coatings provided by email photographs showing that the facility labeled the satellite containers which addressed the items described above. **EPA is not requesting any further information for this violation.**

4. Content of the Contingency Plan

Under Wis. Admin. Code §§ NR 662.034(1)(d) and 665.0052(3) and (5), a large quantity generator must have a contingency plan that (1) describes arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services and (2) contains a list of all emergency equipment at the facility that includes each item's location, each item's physical description, and a brief outline of each item's capabilities.

At the time of the inspection, Heresite Protective Coatings' contingency plan did not describe emergency arrangements agreed to by local first responders, nor did it contain a list of emergency equipment that included each item's location and a brief outline of each item's capabilities.

5. Copies of the Contingency Plan

Under Wis. Admin. Code §§ NR 662.034(1)(d) and 665.0053(2), a large quantity generator must submit a copy of the contingency plan and all revisions of the plan to local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

At the time of the inspection, Heresite Protective Coatings could not demonstrate that it had submitted copies of the facility's contingency plan to the local emergency authorities.

6. Training

Under Wis. Admin. Code §§ NR 662.034(1)(d) and 665.0016(1)(a) and (3), a large quantity generator of hazardous waste must have its personnel complete 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. Under Wis. Admin. Code § 665.0016(3), facility personnel must take part in an annual review of the training.

At the time of the inspection, Heresite Protective Coatings failed to provide facility personnel with an annual review training during 2020 and 2021.

Other Violations

7. Hazardous Waste Recordkeeping

Under Wis. Admin. Code § NR 662.040(2), a generator must keep a copy of each annual report and exception report for a period of at least three years from the due date of the report.

At the time of the inspection, Heresite Protective Coatings failed to keep copies of the 2020, 2021, and 2022 annual reports it had submitted to the Wisconsin Department of Natural Resources.

8. Used Oil Requirement

Under Wis. Admin. Code § NR 679.22(3)(a), containers and aboveground tanks used to store used oil at generator facilities must be labeled or marked clearly with the words "Used Oil."

At the time of the inspection, two 5-gallon containers of used oil, located in the facility's 90-day storage area, were not labeled with the words "Used Oil."

9. Universal Waste Requirement

Under Wis. Admin. Code § NR 673.13(4)(a), a small quantity handler of universal waste must 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 remain closed.

At the time of the inspection, Heresite Protective Coatings' box of lamps was left open.

During the inspection, Heresite Protective Coatings closed the open box of used lamps, which addressed the item described above. **EPA is not requesting any further information for this violation.**

Actions Requested

In order to ensure compliance, no later than 30 calendar days after receipt of this letter, please provide information (1) documenting the actions, if any, which you have taken since the inspection to address the identified potential violations or (2) demonstrating why the violation(s) have not occurred. You do not need to provide documentation regarding violations that you addressed during the inspection as noted above.

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

r5lecab@epa.gov; and
Samaranski.derrick@epa.gov

The subject line of all email correspondence must include WID006072052. 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 Derrick Samaranski 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 Derrick Samaranski. You may call him at (312) 886-7812 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: 2024.10.17
09:34:36 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Mike Ellenbecker, WDNR, Michael.ellenbecker@wisconsin.gov
Andrea Keller, WDNR, andrea.keller@wisconsin.gov