REGION 4

ATLANTA, GA 30303

ELECTRONIC MAIL
CONFIRMATION OF RECEIPT EMAIL REQUESTED

Bryan Campbell
Senior District Manager
Chemical Waste Management, Inc. (CWM)
Mt. Hebron Transfer Facility
36964 Alabama Hwy 17
Emelle, Alabama 35459
bcampb8@wm.com

Re: Opportunity to Show Cause
Resource Conservation Recovery Act (RCRA) Compliance Evaluation Inspection (CEI) Chemical Waste Management, Inc. EPA ID: ALD000622464

Dear Bryan Campbell:

On February 6-8, 2024, the U.S. Environmental Protection Agency, along with the Alabama Department of Environmental Management (ADEM), conducted a RCRA CEI at Chemical Waste Management, Inc., located in Emelle and Hueytown, Alabama, to determine the facility's compliance status with RCRA and applicable regulations. This RCRA CEI was an EPA-lead inspection.

The EPA has determined that the facility may not be in compliance with several requirements of the AHWMMA, Ala. Code §§ 22-30-1 et seq. [Subtitle C of RCRA, 42 U.S.C. §§ 6921 to 6939(g)], and the regulations promulgated pursuant thereto, found at Rules 335-14-1 to 335-14-17 of the Alabama Department of Environmental Management (ADEM) Administrative Code (ADEM Admin. Code) [Title 40 of the Code of Federal Regulations (C.F.R.) Parts 260 through 279] based on potential violations observed during the CEI. The observations made during the inspection are summarized in the attached RCRA CEI Report. Specifically, the EPA is reviewing observations made during the CEI related to the following potential violations:

1. *Pursuant to Permit Condition III.G.6. (Management of Containers), an appropriate hazardous waste label will be affixed to each container, as specified in Section D-1 of the permit application. The label will include, at a minimum, the date the container was received (or other information that provides a clear indication of the beginning date of the staging period for the container) and all appropriate EPA hazardous waste numbers associated with the hazardous waste in the container as specified in ADEM Admin. Code Rules 335-14-2-.03 and 335- 14-2-.04 (or other*

information that provides a clear indication of the type(s) of hazardous waste in the container and the hazard(s) associated with that waste).

2. *Pursuant to Permit Condition III.E. (Condition of Containers) and ADEM Admin. Code R. 335-14-5-.09(2) [40 C.F.R. § 264.171], if a container holding hazardous waste is not in good condition (e.g., severe rusting, apparent structural defects) or if it begins to leak, upon discovery, the Permittee shall immediately transfer the hazardous waste from such container to a container that is in good condition or otherwise manage the waste in compliance with the conditions of ADEM Admin. Code R. 335-14-5-.09(2).*

3. *Pursuant to Permit Condition V.F.1. (Installation Requirements), each containment building must be constructed and maintained in accordance with the design specifications contained in Sections D-9-2 and D-9-6 of the permit application and the design standards required by ADEM Admin. Code R. 335- 14-5-.30(2)(a) and (b) [40 C.F.R. §§ 264.1101(a) and (b)]. Pursuant to Section D-9-2(e) of the Permit Application states, in accordance with ADEM Administrative Code Rule 335- 14-5-.30(2)(c)1.(iv) and 40 C.F.R. § 264.1101(c)(1)(iv), "in order to control fugitive dust emissions during routine operating and maintenance activities the containment building units are equipped with dust collector(s) of sufficient size and exhaust volume to maintain the area such that there are no visible signs of dust or particulate emissions from any doors or openings as determined by the procedures in Method 22 in Appendix A of 40 C.F.R. Part 60. The dust collector(s) is(are) serviced by air intake plenums strategically located throughout the area to allow treatment activities that may generate suspended particulate to be performed in any area of the containment building unit. All openings in the unit are specified, installed and maintained to provide an effective barrier against fugitive dust emissions and to allow proper operation of the dust collector(s)."*

4. *Pursuant to Permit Condition V.G.10. (Management in Containment Buildings, General Operating Requirements), which incorporates Section D-9-3(j) (Inspection of Containment Building Management Units) of the Permit Application, inspection of containment building storage, processing, treatment, and handling operations is performed in accordance with the Inspection Plan provided in Section F of this Permit Application. These inspections are performed at least once every seven (7) days and include the inspection of all floor sumps, liquid collection sumps, leak detection sumps, dust collector exhausts, the primary containment wearing surface and walls, and the area immediately surrounding the building for signs of a release of hazardous waste. The wearing surfaces and containment walls within containment building units will be maintained to be free from leakable cracks or gaps (i.e., cracks or openings that compromise the containment system, as opposed to: 1) minor surface striations; 2) surface fractures covered 5 and sealed by coatings; 3) cracks sealed with an appropriate sealant system; or 4) other such partial penetrations that do not compromise the containment system) or other deterioration that could allow hazardous waste to be released from the primary barrier or containment walls into the secondary containment system or to the outside of the unit.*
5. *Pursuant to Permit Condition I.C.4. (Duty to Mitigate) and ADEM Admin. Code R. 335-8- .03(1)(d) [40 C.F.R. § 270.30(d)], in the event of noncompliance with this permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.*

6. *Pursuant to Permit Condition I.C.5. (Proper Operation and Maintenance) and ADEM Admin. Code R. 335-8-.03(1)(e) [40 C.F.R. § 270.30(e)], the Permittee shall, at all times, properly operate and maintain all facilities and systems of treatment, monitoring, and control (and related appurtenances) which are installed or used by the Permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance (O&M) include effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of this permit.*

7. *Pursuant to Permit Condition II.C. (General Inspection Requirements) which incorporates Section F-2a(4) – Documentation and Recordkeeping, of the approved Permit Application, the RWO forms are attached to the inspection form for further review and filing.*

8. *Pursuant to Permit Condition II.C. (General Inspection Requirements), the Permittee shall comply with all the requirements of ADEM Admin. Code Rules 335-14-5-.02(6) [40 C.F.R. § 264.15(c)] and 335-145-.09(5) [40 C.F.R. § 264.174], which includes the requirement that the owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.*

9. *Pursuant to ADEM Admin. Code r. 335-14-3-.01(2) [40 C.F.R. § 262.11], a hazardous waste determination for each solid waste must be made at the point of waste generation. Hazardous waste with the EPA waste code F039 is defined as leachate (liquids that have percolated through land disposed wastes) resulting from the disposal of more than one restricted waste classified as hazardous under Subpart D of this Part.*

10. *Pursuant to Permit Condition XI.B. (General Groundwater Monitoring Program) and ADEM Admin. Code Rule 335-14-5-.06(8)(c) [40 C.F.R. § 264.97], all monitoring wells must be cased in a manner that maintains the integrity of the monitoring well bore hole. This casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of groundwater samples. The annular space (i.e., the space between the bore hole and well casing) above the sampling depth must be sealed to prevent contamination of samples and the groundwater. Monitoring wells must be operated and maintained in a manner to prevent soil, surface water, and/or groundwater contamination. This requirement includes the installation of protective barriers around monitoring wells where necessary to prevent damage to the well from traffic or other causes or as required on a case-by-case basis by the Department. All monitoring wells must have functional key or combination locks on the wellhead covers to prevent unauthorized access. All monitoring wells must be assigned an identifying number by the facility, and such numbers must be permanently affixed to the outer casing of each monitoring well.*

Please provide a detailed written response within fourteen (14) days following receipt of this letter describing any actions that Chemical Waste Management, Inc has taken and/or intends to take related to the observations and potential violations outlined above. Your response should be emailed to:

Tarin Tischler
tischler.tarin@epa.gov
U.S. Environmental Protection Agency, Region 4
RCRA Enforcement Section
Chemical Safety and Land Enforcement Branch
Enforcement and Compliance Assurance Division

Information currently available to the EPA suggests that Chemical Waste Management, Inc. may be in violation of, or have committed violations of, RCRA. By this letter, the EPA is extending to you an opportunity to advise the Agency, via a conference call, of any further information the EPA should consider with respect to the potential violations. Chemical Waste Management, Inc. may elect to be represented by legal counsel at this meeting and should be prepared to present relevant information and documentation pertaining to the EPA's observed potential violations.

The EPA may determine that a formal enforcement action is appropriate and may assess civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a). Therefore, Chemical Waste Management, Inc. has the opportunity to present factors and documentation that could mitigate any penalties that may be assessed against the facility, including information on Chemical Waste Management, Inc. ability to pay a penalty. Prior to the meeting, Chemical Waste Management, Inc. may review the following documents:

- **RCRA Civil Penalty Policy** found at: https://www.epa.gov/sites/default/files/2020-05/documents/june2003rcracivilpenaltypolicyamended050620.pdf

- **Amendments to EPA's Civil Penalty Policies to Account for Inflation:** https://www.epa.gov/system/files/documents/2024-01/amendmentstotheepacivilpenaltypolicyinflation011524.pdf

Please be advised that any information provided by Chemical Waste Management, Inc. at the meeting may be used by the EPA in any civil or criminal proceedings related to this or other matters. Any false, fictitious, or fraudulent material omissions, statements or representations may subject Chemical Waste Management, Inc.to criminal penalties under Section 3008(d)(3) of RCRA, 42 U.S.C. § 6928(d)(3).

If Chemical Waste Management, Inc. chooses to accept this offer to meet with the EPA, the facility should contact Brooke York **within fourteen (14) days** following receipt of this letter to schedule a conference call. Brooke York can be reached at (404) 562-8025 or by email at york.brooke@epa.gov. If you decide not to accept this offer to meet to discuss the observed potential violations, the EPA may proceed with enforcement action against Chemical Waste Management, Inc. as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), including the assessment of appropriate civil penalties and injunctive relief.

If Chemical Waste Management, Inc. is a Small Business or a Small Community, you can find compliance and enforcement resources specifically designed to meet your needs at: http://www2.epa.gov/enforcement/small-businesses-and-enforcement. In that webpage you can find information about the Small Business Regulatory Enforcement Fairness Act (SBREFA) that accords some rights to small businesses and is aimed at providing assistance to small businesses and other small entities, making tools available for better understanding of the regulatory and enforcement processes, and seeing that there is no unfair treatment relating to the regulatory enforcement process.

Please feel free to contact Tarin Tischler if you have any technical questions regarding the observations and findings from the inspection performed at Chemical Waste Management, Inc.'s facility.

Sincerely,

FORREST COVINGTON

Digitally signed by FORREST COVINGTON
Date: 2024.09.06 12:36:03 -04'00'

for Alan A. Annicella
Acting Chief
Chemical Safety and Land Enforcement Branch

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