



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

VIA ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED

Peter Kocian
Director, Human Resources
Stainless Foundry & Engineering, Inc.
5110 North 35th Street
Milwaukee, Wisconsin 53209
pkocian@stainlessfoundry.com

Re: **Warning Letter: Notice of Potential Violation(s)**
Stainless Foundry & Engineering, Inc.
EPA Identification No.: WID006084966

Dear Mr. Kocian:

On May 17, 2023, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection and sampling event at the Stainless Foundry & Engineering, Inc., facility ("SFE" or "Facility") located in Milwaukee, Wisconsin. The purpose of the inspection was to evaluate SFE's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste¹. A copy of the inspection report was sent to your attention by electronic mail on June 25, 2023. A copy of the sample results is enclosed with this letter for your reference.

Information currently available to EPA suggests that SFE 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 to take additional enforcement actions under RCRA in response to the potential violations identified in this letter, provided that SFE demonstrates that it has corrected the violations and returned to full compliance with

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 § 662.034 (2006) that remains the RCRA authorized Large Quantity Generator provision in Wisconsin.

RCRA. However, EPA 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 SFE’s potential failure to comply with a generator condition for an exemption from the requirement to obtain 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 independent 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. Maintenance and Operation of Facility

Under Wis. Admin. Code §§ NR 662.034(1)(d) or NR 662.192(1)(d); and 665.0031, a generator of hazardous waste must maintain and operate its facility to minimize the possibility of fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water which could threaten human health or the environment.

At the time of the inspection, SFE had accumulated dust and fines from foundry operations on the indoor processing floor of the facility, on the floors around outdoor baghouse collection units, and on the gravel parking lot in the southeast corner of the facility property. The baghouse dust is not hazardous waste; however, it does contain hazardous waste constituents including arsenic, barium, cadmium, chromium, lead, selenium and silver. Chromium was detected in two samples (identified as Sample Numbers 23205050 and 2320501 in the enclosed sample results) at levels that exceeded the land disposal restriction treatment standard of 0.60 mg/L (detected in the samples at 2.00 mg/L and 1.90 mg/L, respectively).

PART II - OTHER POTENTIAL VIOLATIONS

2. Waste Determination Documentation

Under Wis. Admin. Code § NR 662.040(3), a generator shall keep records of any test results, waste analyses or other determinations made in accordance with Wisc. Admin. Code § NR 662.011 for at least 3 years from the date that the waste was last sent for treatment, storage, or disposal.

At the time of the inspection, SFE did not provide documentation to support a waste determination for refractory kiln brick.

3. Universal Waste Requirement

Under Wis. Admin. Code § 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 remain closed and shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.

Additionally, under Wis. Admin. Code § NR 673.14(5), each lamp or a container or package in which the lamps are contained shall be labeled or marked clearly with the phrase “Universal Waste - Lamps,” “Waste Lamps,” or “Used Lamps.”

Lastly, under Wis. Admin. Code § NR 673.15(1) and (2), a small quantity handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated unless the generator proves that this activity is solely for the purpose of accumulation of quantities of universal waste as necessary to facilitate proper recovery, treatment, or disposal of the waste.

At the time of the inspection, SFE was storing two (2) containers of used lamps in the Universal Waste – Used Lamps staging area. One container was open and labeled “Used Lamps Started 10/01/2020.” This container of lamps, therefore, was stored for more than one year. SFE did not provide any information to prove that this container of lamps was stored for longer than one year in order to facilitate recovery, treatment, or disposal of the waste. The second container of used lamps was also open, and a label was not visible. A start date of accumulation was not provided for this second container.

PART III - 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 or demonstrating why the violation(s) have not occurred.

Please send all information requested by this letter by electronic mail to R5LECAB@epa.gov and to whitney.brenda@epa.gov.

The subject line of all email correspondence must include SFE’s EPA Identification Number (WID006084966). 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 at whitney.brenda@epa.gov 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, as mentioned above, is Brenda Whitney. You may contact Ms. Whitney at 312-353-4796 or at whitney.brenda@epa.gov if you have additional questions. 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)