



REGION 5

CHICAGO, IL 60604

**ELECTRONIC MAIL
DELIVERY RECEIPT REQUESTED**

Andrea Marrs
Global Environmental & Compliance Manager
Aurorium LLC
201 North Illinois Street, Suite 1800
Indianapolis, Indiana 46204
amarrs@aurorium.com

Re: **Notice of RCRA Violation and Opportunity to Confer**
Facility Name: Aurorium Zeeland, LLC
Facility EPA Identification No.: MID083684290
Zeeland, Michigan

Dear Andrea Marrs:

On June 21-22, 2023, the U.S. Environmental Protection Agency conducted a RCRA compliance evaluation inspection of the Aurorium Zeeland, LLC's ("Aurorium" or "you") facility located in Zeeland, Michigan. A copy of the inspection report was provided to you via email on August 11, 2023. The purpose of the inspection was to evaluate Aurorium's compliance with certain provisions of RCRA and its implementing regulations related to the generation, treatment, and storage of hazardous waste.

Information currently available to EPA suggests that the facility may be in violation of RCRA. During the inspection, EPA observed the violations described below. EPA requests 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 violations described below or demonstrating why the violations have not occurred. We also ask that you voluntarily provide responses to the question(s) found in the "Additional Information" section below. After 30 calendar days from your receipt of this letter and, if applicable, after a review of your response, EPA will notify you of any further action.

PART I – Storage of Hazardous Waste without a License or Interim Status Which Violated Section 3005 of RCRA, 42 U.S.C. § 6825(a) and State Licensing Requirements

During the inspection, EPA observed Aurorium's failure to comply with the RCRA license exemption conditions, below. When a hazardous waste generator fails to comply with the conditions for a license exemption, the generator is an operator of a hazardous waste treatment, storage, or disposal facility (TSDF) without a license in violation of Section 3005 of RCRA, 42 U.S.C. § 6925(a) and of State Licensing

Requirements at Mich. Admin. Code r. 299.9502(1), 299.9508, and 299.9510. Many of the RCRA license exemption conditions are also independent requirements that apply to licensed and interim status TSDFs (TSDF requirements). When a hazardous waste generator loses its license exemption due to a failure to comply with an exemption condition incorporated from TSDF requirements in Mich. Admin. Code r. 299.9601(1)-(3) and 299.11003(1)(p) and (q), the generator is not only an operator of an unlicensed TSDF, as mentioned above, but also simultaneously in violation of the corresponding TSDF requirements.

1. Marking Start Dates

Under Mich. Admin. Code r. 299.9307(1)(b)(i)(I)(III), a large quantity generator who accumulates hazardous waste in containers must mark or label each container with the date upon which each period of accumulation begins clearly visible for inspection on each container.

At the time of the inspection, one 250-gallon tote in the Building 31 central accumulation area (CAA) labeled as “EMA HW WW Low pH” was not marked with a start date of accumulation.

Note: Aurorium supplied a photograph of an accumulation start date marked on this container to EPA on July 14, 2023. **EPA is not requesting further information for this item.**

The license exemption conditions identified below are also independent TSDF requirements.

2. Open Container

Under Mich. Admin. Code r. 299.9307(1)(b)(i)(D), a large quantity generator who accumulates hazardous waste in containers must keep the containers closed at all times during accumulation, except when necessary to add or to remove waste.

At the time of the inspection, one 250-gallon tote located in the Drum Lot #4 CAA that was labeled as “Pic Dryer Solvent” was not closed.

3. Weekly Inspections

Under Mich. Admin. Code r. 299.9307(1)(b)(i)(F), a large quantity generator who accumulates hazardous waste in containers in a CAA must inspect the CAA at least weekly, looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

At the time of the inspection, the EPA inspector identified the following gaps in the weekly inspection records:

2/4/22 - 3/4/22
3/11/22 – 6/10/22
9/12/22 – 9/30/22
10/28/22 – 11/11/22
12/16/22-1/6/23
1/13/23 – 1/27/23

4. Personnel Training

Under Mich. Admin. Code r. 299.9307(1)(h), personnel employed at a large quantity generator shall take part in an annual review of training that teaches employees to perform their duties in a way that ensures compliance with the hazardous waste regulations.

At the time of the inspection, RCRA annual training was not being offered consistently. The EPA inspector observed the following gaps in the training records:

Employee BM - October 2021 to February 2023.
Employee J.N. - October 2021 to February 2023.
Employee R.B. - September 2020 to February 2023.
Employee J.V. - December 2021 to March 2023.
Employee Z.B. - September 2020 to January 2022.

5. Contingency Plan

Under Mich. Admin. Code r. 299.9307(1)(c), a large quantity generator must comply with the requirements of 40 C.F.R. part 262, subpart M.

- Section 262.261 of this subpart prescribes the content of a facility contingency plan. Specifically, 40 C.F.R. § 262.261(e) requires the generator include, among other things, the locations of identified emergency equipment.
- Section 262.262 of this subpart identifies to whom copies of the contingency plan are to be submitted. Specifically, 40 C.F.R. § 262.262(a) requires the generator to submit a copy of the contingency plan and all revisions to all local emergency responders.

At the time of the inspection, the facility contingency plan, referred to as the Emergency Response Plan, did not include the location of identified emergency equipment. Also, Aurorium did not appear to have sent copies of the most current Emergency Response Plan to the local police department and hospital.

PART II – GENERATOR REQUIREMENTS

6. Hazardous Waste Manifests

Under Mich. Admin. Code r. 299.9312(4)(b), a large quantity generator who does not receive a copy of a manifest with the handwritten signature of the designated facility within 45 days of the date the waste was accepted by the initial transporter shall submit an exception report to the Director and the EPA Regional Administrator for Region 5. The exception report must include (i) a legible copy of the manifest for which the generator does not have confirmation of delivery, and (ii) a cover letter signed by the generator, or the generator's authorized representative, explaining the efforts taken to locate the hazardous waste and the results of those efforts.

At the time of the inspection, Aurorium was unable to produce a copy of Manifest 017295257FLE that included a signature and date from the designated facility. Aurorium did not

have a record of submitting an exception report. This manifest also has not been uploaded into the e-manifest database.

Part III - Additional Information

At the time of the inspection, the inspector observed a tote-washing operation in Building 23. According to information provided by Aurorium and included as Appendix D in the inspection report, rinsate from cleaning out RCRA-empty totes collects in a sump in Building 23. This material may also be combined with captured rainwater and snow melt. This combined wastestream, in past practice, was pumped either into a tote or into a “small holding tank” (no identification number provided). The small holding tank would then be emptied either into a non-hazardous wastewater tank (98-TK-1101) or into a tote. The information provided by Aurorium also suggested that the piping leading from the sump to the small holding tank would be decommissioned.

EPA is requesting the following information regarding the Building 23 processes described above:

- a. Rinsing RCRA-empty containers generates a new solid waste that requires a waste determination upon removal from the empty container. This determination must be made prior to mixing the rinsate with any other material. It appears that the rinsate may be combined with captured rainwater and snowmelt. Please describe how and when Aurorium makes a waste determination on rinsate.
- b. Provide documentation supporting waste determinations for rinsate generated from the tote-washing process for the years 2022, 2023, and 2024.
- c. Provide all shipping records, including manifests and bills of lading, for rinsate generated from the tote-washing process for the years 2022, 2023, and 2024.
- d. Provide an update on the decommissioning of the piping leading from the sump to the small holding tank.

Actions Requested

By no later than 30 calendar days from the date of this letter, please provide information documenting the actions, if any, which you have taken since the inspection to address the alleged violations, as well as any additional information requested.

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

The subject line of all email correspondence must include Aurorium’s EPA Identification Number (MID083684290). 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 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.

As mentioned above, the EPA technical contact in this matter is Brenda Whitney. Should you have questions of a legal nature, please contact Carlene Dooley at 312-353-2979 or at dooley.carlene@epa.gov. Thank you for your prompt attention to these concerns and your efforts to protect human health and the environment.

Sincerely,

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division

cc: Fred Sellers, MI EGLE (sellersf@michigan.gov)
Phil Roycraft, MI EGLE (roycraftp@michigan.gov)
Alexandra Clark, MI EGLE (clarka37@michigan.gov)
Elizabeth Browne, MI EGLE (brownee@michigan.gov)

Fernanda Beraldi
Vice President & General Counsel
Aurorium, LLC
fberaldi@aurorium.com