



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
WARREN DISTRICT OFFICE



September 12, 2023

VIA EMAIL

John Barta, General Manager
US Ecology Detroit South
1923 Frederick Street
Detroit, Michigan 48211-2603

Dear John Barta:

SUBJECT: Violation Notice; US Ecology Detroit South; Wayne County
Site Identification No.: MID 980 991 566; Waste Data System No.: 399367

On July 31, 2023, staff of the Department of Environment, Great Lakes, and Energy (EGLE), Materials Management Division (MMD), conducted an inspection of EQ Detroit, Inc. (EQD), doing business as US Ecology Detroit South (USEDSD), located at 1923 Frederick Street, Detroit, Michigan. The purpose of the inspection was to evaluate USEDSD's compliance with Part 111, Hazardous Waste Management, and Part 121, Liquid Industrial By-Products, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA); the corresponding requirements under Subtitle C of the federal Resource Conservation and Recovery Act of 1976, as amended (July 1, 2018 edition); any administrative rules or regulations promulgated pursuant to these acts; and USEDSD's Part 111 Hazardous Waste Management Facility Operating License (License) issued on December 12, 2003 and revised on March 18, 2004. A copy of the completed inspection form can be obtained by contacting this office.

As a result of the inspection, MMD staff determined that USEDSD is in violation of the following:

- 1. Operating License Condition III.C. – Condition of Containers** - If a container holding hazardous waste is not in good condition (e.g., rusting, apparent structural defects) or if it begins to leak, the licensee shall 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 this license. {R 299.9614(1)(a) and 40 CFR §264.171, which is adopted by reference (ABR) in R 299.11003}

Operating License Condition III.E.1. – Management of Containers - The licensee shall keep all containers holding hazardous waste closed during storage except when it is necessary to add or remove waste, and shall not open, handle, or store containers in a manner which may rupture the containers or cause them to leak. {R 299.9614 and 40 CFR §264.173, which is ABR in R 299.11003}

During the inspection, MMD observed two damaged cardboard containers containing waste lamps (later determined to be waste codes D005, D008, and D009, see item 2 below regarding labeling) in the Chemical Fixation (Chem-Fix) Building. In addition, the lamps were not enclosed in the containers (open boxes with lamps sticking out).

The lamps were transferred to secure containers during the inspection, resolving the issue. Similar incidents of container condition issues have been identified on January 13, 2022, July 21, 2022, October 11, 2022, and April 19, 2023 (see Violation Notices dated August 4, 2022, and May 31, 2023, and Compliance Communications dated February 1, 2022, and October 24, 2022).

Please provide what staff training and facility actions USEDS will be taking to address the repeated container management issues.

2. **Operating License Condition III.E.2. – Management of Containers** - The licensee shall ensure that each container of hazardous waste in the container storage areas referenced in Condition III.A. of this license is labeled or clearly marked with the words "Hazardous Waste," the hazardous waste number, and the date it was accepted for storage so that compliance with the one-year storage limit can be assessed. The labels on each container shall be visible for inspection. {R 299.9521(3)(b), R 299.9614, R 299.9627, and 40 CFR §268.50(a)(2)(i), which is ABR in R 299.11003}

During the inspection, multiple areas were identified where labeling was not in compliance with Condition III.E.2 listed above.

- a. Chem-Fix Building – lamp containers with no labels indicating hazardous waste, hazardous waste number, or accumulation date.
- b. Chem-Fix Building – hazardous waste roll-off box containing filter cake – no waste code or accumulation date.
- c. Wastewater Treatment – labeling indicating hazardous waste, no waste codes or accumulation date. The facility claims this material is reuse bleach.
- d. Transfer and Processing Building – Depack – flammable consolidation container with no label indicating hazardous waste, hazardous was number, or accumulation date.
- e. Area adjacent to former 600 Series Pad – one container with contradictory labeling (hazardous waste versus nonhazardous waste). The material was later determined to be hazardous waste (waste code D001). No accumulation date, or waste codes were included on the labeling.

The above violations were corrected at the time of inspection, with labeling meeting the requirements of Condition III.E.2.

Please provide what staff training and facility actions USEDS will be taking to address the container labeling issues identified.

3. **40 CFR §279.54(c)(2) – Used Oil Secondary Containment for Containers** - Containers used to store or process used oil at processing and re-refining facilities must be equipped with a secondary containment system. The entire containment system, including walls and floor, must be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water.

During the inspection, the containment of the former 600 series tank pad, which is used to store used oil and Liquid Industrial By-products (LIB), was observed to have multiple areas with severe cracking and degradation of containment concrete and degradation to the containment coating. Photos of the areas identified were provided to USEDS on August 2, 2023. On August 23, 2023, USEDS provided email correspondence stating that the 600 series pad will be repaired by August 30, 2023, weather permitting. On September 1, 2023, USEDS provided email correspondence with a photo showing the pad following repairs. MMD will evaluate repairs during the next quarterly inspection.

Please provide USEDS's cracks and gaps program and how identified containment issues will be addressed going forward.

4. **NREPA, Part 121, 324.12103(1)(a)** - Characterize the liquid industrial by-product in accordance with this act and maintain records of the characterization.

NREPA Part 111, R 299.9302(1) - A person who generates a waste as defined in R 299.9202 shall make an accurate determination if that waste is a hazardous waste to ensure the waste is properly managed under these rules.

On July 6, 2023, MMD was notified that a non-hazardous, solid waste processor, Valicor, rejected one container from a shipment (manifest 023211218 JJK) from USEDS due to the material not meeting the profile for accepted waste at Valicor. According to email correspondence from Valicor, the rejected container was identified to have a pH of <1. A similar notification was made to MMD on August 2, 2023 for material received at Valicor (manifest 023211337 JJK) for two totes with a pH greater than 12.5. Valicor is not a hazardous waste destination facility and is not authorized to accept hazardous waste. Both incidents resulted in the waste being rejected back to USEDS to be managed as hazardous waste (waste code D002 - corrosive).

On August 8, 2023, USEDS provided email correspondence stating that as an interim corrective action, USEDS will sample 100% of waste streams that will be transshipped to Valicor.

If USEDS/EQD is listed as the generator on the outbound manifest to Valicor or any other destination facility (hazardous or nonhazardous), USEDS/EQD is taking ownership of the waste and appropriate characterization is necessary to meet the requirements of NREPA, Part 121, 324.12103(1)(a) and NREPA Part 111, R 299.9302(1) listed above.

Please confirm how long USEDS intends to sample 100% of the waste streams that will be transshipped to Valicor. Please provide what staff training and facility actions USEDS will be taking to assure that all containers shipped off site, with USEDS/EQD as the generator, will be appropriately characterized.

While not specific violations, the following additional issues were identified by MMD staff during the course of the inspection. This is provided to assist USEDS in maintaining compliance and avoiding future noncompliance:

- A. **Operating License Condition III.E.3. – Management of Containers** - The licensee shall only place containers into the hazardous waste container storage areas referenced in Condition III.A. of this license in accordance with the configurations specified in Attachment 8 of this license or an alternate configuration approved by the Chief of the Waste and Hazardous Materials Division. {R 299.9521(3)(b)}

During the inspection, MMD observed four totes and one 55-gallon drum stored at the former 600 series tanks load pad, which is an unauthorized hazardous waste container storage area. On June 8, 2023, MMD was notified that USEDS received waste (manifest 016639772 FLE) on June 5, 2023, and following waste acceptance, the material within the containers began to react, and the reaction had damaged some of the tote containers. The waste acceptance laboratory worksheet provided by USEDS indicates that the waste met the generator profile at the time of acceptance. On June 9, 2023, the containers of concern were stored in an authorized storage area, at the North Container Storage Area (North Pad).

On June 16, 2023, during a site visit, MMD observed storage of the containers of concern at the former 600 Series Load pad. At that time, it was agreed that temporary storage would be allowed due to work being conducted on the Chem-Fix Building/closure of the North Pad, and while USEDS determines how to safely handle the containers due to the ongoing reactions and damage to the containers.

It was not MMD's understanding that storage at the former 600 Series Load Pad would be more permanent storage (from June 16, 2023 through July 31, 2023). While MMD agrees that the temporary storage at the 600 series load pad was appropriate as a short-term measure due to health and safety concerns of the reacting totes, the longer-term storage of hazardous waste in unauthorized areas is prohibited. On August 23, 2023, USEDS provided email correspondence, demonstrating that the containers have been moved back to the North Pad, an authorized storage location.

Any future incident that requires containers to be isolated for extended periods of time, shall be stored in authorized storage locations only. This may require reducing inventory of hazardous waste on site to accommodate safe storage in authorized areas of situations described above.

- B. **Operating License Condition II.S.1. – Air Emission Standards** - The licensee shall comply with the requirements of 40 CFR Part 264, Subpart CC, regarding air emission standards for tanks and containers. {R 299.9634 and 40 CFR Part 264, Subpart CC, which is ABR in R 299.11003}

As described above, some of the containers stored at the former 600 series loading pad were damaged from the reaction in the containers, resulting in the containers not meeting Subpart CC requirements. The USEDS profile (Form ID 626379) for the waste indicates that the waste had a volatile organic concentration of greater than 500 parts per million per 40 CFR §264.1083. MMD understands that there are no suitable overpacks for totes and that during the reactions, safe handling of the material was of concern. However, the material was received on June 5, 2023, and was stored following the reactions in containers not meeting Subpart CC requirements until the time of inspection on July 31, 2023 (approximately two months).

On August 23, 2023, USEDS provided photographs and correspondence indicating that the material is now stored in containers meeting Subpart CC requirements.

USEDs is required to store Subpart CC subject waste in containers that meet Subpart CC requirements. If future incidents occur, MMD expects more prompt action on meeting Subpart CC requirements.

- C. **40 CFR §264.71 - Use of Manifest System. Options for compliance on June 30, 2021** - Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest system for purposes of data entry and processing may be met by the owner or operator only by transmitting to the EPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the EPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days of the date of delivery. Submissions of copies to the e-Manifest system shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services.

As part of the inspection, MMD reviewed manifests 016639505FLE (received December 8, 2022) and 016639772FLE (received June 5, 2023). The above manifests were not uploaded to the e-Manifest system. On August 30, 2023, USEDS provided verbal communication that the manifests have been uploaded to e-Manifest resolving the issue.

Please provide what staff training and facility actions USEDs will be taking to assure all manifests received by USEDs are uploaded to the e-Manifest system within 30 days of the date of delivery.

USEDs should immediately initiate any actions specified above, and any other actions necessary to correct the cited violations. Additionally, please submit documentation to this office regarding those actions taken, or to be taken, to address the violations listed above by **October 12, 2023**.

At a minimum, your response should explain the cause of the violations, the actions taken to correct the violations, what steps are being taken to prevent reoccurrence of the violations, and the duration of the violations, including whether the violations are ongoing. If the violations not resolved by the date of your response, your response should include a Work Plan that describes the equipment that will be installed, procedures that will be implemented, processes or process equipment that will be shut down, or any other actions that will be taken, and by what dates these actions will take place to resolve the violations.

Your response may include additional information relevant to the violations observed for evaluation. Staff of the MMD will evaluate your response, determine USEDs's compliance status at the above-referenced location, and notify you of this determination.

This Violation Notice does not preclude, nor limit, EGLE's ability to initiate any other enforcement action under state or federal law, as deemed appropriate.

Please be further advised that one or more of the violations identified in the Violation Notice may meet the definition of Significant Non-Compliance, as discussed in the U.S. Environmental Protection Act (EPA) Hazardous Waste Civil Enforcement Response Policy. This Policy requires that significant violations be resolved through a formal enforcement action to include both correction of the violation and payment of a penalty. The MMD is required to follow this Federal policy, and this matter will undergo further evaluation by MMD's Enforcement Section.

The MMD anticipates and appreciates your cooperation in resolving this matter. If you have any questions, please feel free to contact me at 586-206-1640, or by email at ZyndaT@Michigan.gov.

Sincerely,



Todd Zynda, P.E.
Senior Environmental Engineer
Warren District Office
Materials Management Division
586-206-1640

cc: Tabettha Peebles, US Ecology
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