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

NOV 27 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kevin Meyer, Plant Manager
Container Life Cycle Management LLC
d/b/a/ Mid-America Steel Drum Company
8570 South Chicago Road
Oak Creek, Wisconsin 53154

Re: Notice and Finding of Violation
Container Life Cycle Management LLC
Oak Creek, Wisconsin

Dear Mr. Meyer:

The U.S. Environmental Protection Agency is issuing the enclosed Notice and Finding of Violation (NOV/FOV) to Container Life Cycle Management LLC (you) under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). We find that you are violating the conditions of your Title V Operating Permit, the Wisconsin State Implementation Plan (SIP), and the National Emissions Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (HWC MACT) at 40 C.F.R. Part 63, Subpart EEE, at your Oak Creek, Wisconsin facility.

Section 113 of the CAA, 42 U.S.C. § 7413, gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us information responsive to the NOV/FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

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The EPA contacts in this matter are Manoj Patel and Alexandra Letuchy. You may call Mr. Patel at (312) 353-3565, or Ms. Letuchy at (312) 886-6035, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,

Edward Nam
Director
Air and Radiation Division

Enclosure

cc: Maria Hill, Acting Chief
Compliance, Enforcement, and Emission Inventory Section
Bureau of Air Management, Wisconsin Department of Natural Resources
Maria.Hill@wisconsin.gov

Kendra Fisher, Regional Leader
Southeast Region
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Ms. Linda Benfield, Attorney
Foley & Larder, LLP
lbenfield@foley.com

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
Container Life Cycle Management, LLC	)	**NOTICE AND FINDING**
Oak Creek, Wisconsin	)	**OF VIOLATION**
	)	
Proceedings Pursuant to	)	**EPA-5-18-WI-02**
The Clean Air Act, 42 U.S.C.	)	
§ 7413(a)	)	

NOTICE AND FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice and Finding of Violation (NOV/FOV) under Section 113(a) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a). EPA finds that you are violating the conditions of your Title V Operating Permit, the Wisconsin State Implementation Plan (SIP), and the National Emissions Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (HWC MACT), at 40 C.F.R. Part 63, Subpart EEE at your Oak Creek, Wisconsin facility (the Facility), as follows:

Statutory and Regulatory Background

Title V Permit Program

1. Title V of the CAA, 42 U.S.C. §§ 7661-7661f, establishes an operating permit program for major sources of air pollution.

2. In accordance with Section 502(b) of the CAA, 42 U.S.C. § 7661a(b), the EPA promulgated regulations establishing the minimum elements of a Title V permit program to be administered by any air pollution control agency. See 57 Fed. Reg. 32295 (July 21, 1992). Those regulations are codified at 40 C.F.R. Part 70.

3. Section 502(d) of the CAA, 42 U.S.C. § 7661a(d), provides that each state must submit to the EPA a permit program meeting the requirements of Title V.

4. On November 30, 2001, EPA granted Wisconsin final approval of its Title V CAA Permit Program, effective November 30, 2001. 66 Fed. Reg. 62951. See also 40 C.F.R. Part 70, Appendix A.

5. On February 28, 2006, EPA granted Wisconsin final approval on revisions to its Title V CAA Permit Program, effective March 30, 2006. 71 Fed. Reg. 9934.

6. Section 502(a) of the CAA, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.7(b) provide that, after the effective date of any permit program approved or promulgated under Title V of the CAA, no source subject to Title V may operate except in compliance with a Title V permit.

Title V Operating Permit

7. On June 11, 2013, Wisconsin Department of Natural Resources (WDNR) issued to Container Life Cycle Management LLC (CLCM) an Air Pollution Control Operation Permit No. 241021220-P20 (2013 Title V Operating Permit) authorizing operation of the Facility as a Part 70 source. The 2013 Title V Operating Permit expires on June 11, 2018.

8. Section I.A.1.a.(1) of the 2013 Title V Operating Permit requires the Facility to limit particulate matter (PM) emissions from the Drum Reclamation Furnace, Process P30, to 3.3 pounds per hour (lb/hr).

9. Section I.A.3.a.(1) of the 2013 Title V Operating Permit requires the Facility to control volatile organic compound emissions from the Drum Reclamation Furnace, Process P30, by at least 85%.

10. Section I.A.3.b.(1) of the 2013 Title V Operating Permit requires the Facility to demonstrate compliance with Section I.A.3.a.(1) of the 2013 Title V Operating Permit, by complying with the requirements in Section I.A.1.b.(1) through (4) of the 2013 Title V Operating Permit.

11. Section I.A.1.b.(2) of the 2013 Title V Operating Permit requires that when the Drum Reclamation Furnace, Process P30, is operating, the Facility shall maintain the operating set point temperature of the afterburner at or above 1650° F and monitor the combustion temperature of the afterburner.

12. Section I.A.1.c.(3) of the 2013 Title V Operating Permit requires that at the Drum Reclamation Furnace, Process P30, the Facility shall monitor and record the temperature in the primary chamber of the afterburner at least once every 15 minutes.

Wisconsin State Implementation Plan

13. On January 18, 1995, EPA approved Wisc. Admin. Code chapter NR 407 as part of the federally enforceable SIP for Wisconsin. 60 Fed. Reg. 3543.

14. The Wisconsin SIP, at Wisc. Admin. Code § NR 407.09(1)(f), states that a permittee has a duty to comply with all conditions of an operation permit.

15. The Wisconsin SIP, at Wisc. Admin. Code § NR 407.09(3), states that all terms and conditions in an operation permit, including any provisions designated to limit a stationary source's potential to emit, are enforceable by the EPA Administrator under Section 113(a) of the CAA, 42 U.S.C. § 7413(a).

16. The Wisconsin SIP, at Wisc. Admin. Code § NR 407.09(1)(f)(1), provides that any noncompliance with the operation permit constitutes a violation of the Wisconsin SIP and is grounds for enforcement action; permit suspension, revocation or revision; or, if applicable, under Wisc. Admin. Code § NR 144.3925(6), denial of a permit renewal application.

National Emission Standards for Hazardous Air Pollutants

17. Section 112 of the CAA, 42 U.S.C. § 7412, requires EPA to promulgate a list of all categories and subcategories of major sources and area sources of hazardous air pollutants (HAP) and establish emissions standards for the categories and subcategories. These emission standards are known as the National Emission Standards for Hazardous Air Pollutants (NESHAP).

18. The NESHAPs in 40 C.F.R. Part 63 are national technology-based performance standards for HAP sources in each category that become effective on a specified date. The purpose of these standards is to ensure that all sources achieve the maximum degree of reduction in emissions of HAP that EPA determines is achievable for each source category.

19. Pursuant to Section 112(b) of the CAA, 42 U.S.C. § 7412(b), EPA designates HAP, which present or may present a threat of adverse effects to human health or the environment.

20. Section 112(a) of the CAA, 42 U.S.C. § 7412(a), defines "major source" as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

21. Section 112(i)(3) of CAA, 42 U.S.C. § 7412(i)(3), and 40 C.F.R. § 63.4, prohibit the owner or operator of any source from operating such source in violation of any NESHAP applicable to such source.

22. The NESHAP, at 40 C.F.R. Part 63, Subpart A, contains general provisions applicable to the owner or operator of any stationary source that contains an affected source subject to the NESHAP at Part 63. These general provisions include definitions at 40 C.F.R. § 63.2.

23. The NESHAP, at 40 C.F.R. § 63.2, defines "affected source" as the collection of equipment, activities, or both within a single contiguous area and under common control that is included in a CAA Section 112(c) source category or subcategory for which a Section 112(d) standard or other relevant standard is established pursuant to Section 112 of CAA.

NESHAP for Hazardous Waste Combustors

24. On September 30, 1999, EPA promulgated the HWC MACT, codified at 40 C.F.R. Part 63, Subpart EEE. 64 Fed. Reg. 52828. EPA has amended the rule several times.

25. The HWC MACT requires the owner or operator of an applicable source to: 1) demonstrate initial and continuous compliance with HWC emission limits, 2) comply with operating limits, 3) monitor compliance, and 4) notify, report, and record its compliance with the requirements associated with hazardous waste combustors.

26. The HWC MACT, at 40 C.F.R. § 63.1200, provides that the provisions of the HWC MACT apply to all hazardous waste combustors: hazardous waste incinerators, hazardous waste cement kilns, hazardous waste lightweight aggregate kilns, hazardous waste solid fuel boilers, hazardous waste liquid fuel boilers, and hazardous waste hydrochloric acid production furnaces. Hazardous waste combustors are also subject to applicable requirements under 40 C.F.R. Parts 260 through 270.

27. The HWC MACT, at 40 C.F.R. § 63.1200(a)(1), states that both area sources and major sources are subject to this subpart.

28. The HWC MACT, at 40 C.F.R. § 63.1200(b) and Table 1, provides that the regulations in the HWC MACT do not apply to your source if (1) you were previously an affected source; (2) you are a research, development, and demonstration source; (3) the only hazardous wastes you burn are exempt from regulation under 40 C.F.R. § 266.100 (c); and (4) you meet the definition of a small quantity burner under 40 C.F.R. § 266.108.

29. The HWC MACT, at 40 C.F.R. § 63.1201, defines hazardous waste incinerator as an incinerator defined in 40 C.F.R. § 260.10 that burns hazardous waste at any time. For purposes of the HWC MACT, a hazardous waste incinerator includes all associated firing systems and air pollution control devices, as well as the combustion chamber equipment.

30. 40 C.F.R.§ 260.10 defines an "incinerator" as any enclosed device that uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace.

31. The HWC MACT, at 40 C.F.R. §63.1201, defines hazardous waste as it is defined in 40 C.F.R. § 261.3.

32. 40 C.F.R. § 261.3 defines "hazardous waste" as, among other things, a solid waste, as defined in 40 C.F.R. § 261.2, if (1) it is not excluded from regulation as a hazardous waste under 40 C.F.R. § 261.4(b); and (2) it meets any of the following criteria: (i) it exhibits any of the characteristics of hazardous waste identified in 40 C.F.R. Part 261 Subpart C; and (ii) it is listed in 40 C.F.R. Part 261, Subpart D, and has not been excluded from the lists in 40 C.F.R. Part 261, Subpart D under 40 C.F.R. §§ 260.20 and 260.22 of the chapter.

33. 40 C.F.R. § 266.100(c) exempts certain hazardous wastes and facilities from, among other things, regulation under the HWC MACT, including: (1) used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified; (2) gas recovered from hazardous or solid waste landfills when such gas is burned for energy recovery; (3) hazardous wastes that are exempt from regulation under 40 C.F.R.§§ 261.4 and 261.6(a)(3)(iii) and (iv), and hazardous wastes that are subject to the special requirements for conditionally exempt small quantity generators under 40 C.F.R. § 261.5 of this chapter; and (4) coke ovens, if the only hazardous waste burned is EPA Hazardous Waste No. K087, decanter tank tar sludge from coking operations.

Relevant Factual Background

34. CLCM owns and operates the Facility, a metal drum reconditioning processing facility at 8570 South Chicago Road, Oak Creek, Wisconsin.

35. At the Facility, CLCM cleans metal drums/containers by processing the metal drums through a reclamation furnace to burn off interior waste residues and exterior paint and any other foreign residues.

36. On December 1, 2016, EPA conducted an inspection of the Facility, to assess compliance with the CAA. On May 4, 2017, EPA conducted a sampling investigation of the Facility, to evaluate compliance with the Resource Conservation and Recovery Act (RCRA) and the CAA.

37. On March 20, 2017, EPA issued an information request to the Facility under Section 114 of the CAA, 42 U.S.C. § 7414 (Section 114 Information Request).

38. On May 4, 2017, representatives of the EPA observed residues from containers exiting onto a conveyor belt that leads into the Drum Reclamation Furnace. EPA collected samples of residues with a solvent-like consistency from two containers on the conveyor. The sampling results indicate that the residues were ignitable (D001) hazardous wastes, and one of the samples exhibited the toxicity characteristic of methyl ethyl ketone (D035).

39. On June 28, 2017, EPA issued an information request to the Facility under Section 3007 of RCRA, as amended 42 U.S.C. § 6927 (Section 3007 Information Request).

40. In response to the Section 3007 Information Request, on July 26, 2017, CLCM provided Drum Reclamation Furnace temperature data. The data shows that CLCM did not maintain the Drum Reclamation Furnace set point temperature of the afterburner at or above 1650 °F on numerous occasions and did not monitor the combustion temperature of the afterburner consistently.

41. The Drum Reclamation Furnace meets the definition of hazardous waste incinerator, at 40 C.F.R. § 63.1201.

42. CLCM's Facility is a major source of hazardous air pollutants.

43. CLCM's Facility was not previously an affected source under Subpart EEE and is not a research, development, and demonstration source.

44. The hazardous wastes CLCM burns in the reclamation furnace at the Facility are not exempt from regulation under 40 C.F.R. § 266.100(c).

45. CLCM's Facility does not meet the definition of a small quantity burner under 40 C.F.R. § 266.108.

Violations

46. CLCM failed to maintain the set point temperature of the Drum Reclamation Furnace afterburner at or above 1650 °F on numerous occasions, in violation of Section I.A.1.b.(2) of its 2013 Title V Operating Permit.

47. CLCM failed to demonstrate compliance with the requirement to limit PM emissions to 3.3 lb/hr and the requirement to control VOCs by at least 85% at its Drum Reclamation Furnace during periods of time when it did not maintain the set point temperature of the afterburner at or above 1650 °F in violation of Section I.A.1.a.(1) and Section I.A.3.b.(1) of its 2013 Title V Operating Permit.

48. CLCM failed to monitor and record the temperature in the primary chamber of the afterburner at least once every 15 minutes at the Drum Reclamation Furnace, in violation of Section I.A.1.c.(3) of the 2013 Title V Operating Permit.

49. CLCM's violations of its 2013 Title V Operating Permit, described above, are violations of Wisc. Admin. Code § NR 407.09(1)(f) of the Wisconsin SIP.

50. As a major source of HAP emissions and an operator of a hazardous waste combustor, CLCM failed to demonstrate initial and continuous compliance with emission limits; conduct performance testing; and meet monitoring, notification, recordkeeping and reporting requirements for its hazardous waste combustor at the Facility, in violation of the HWC MACT.

Environmental Impact of Violations

51. These violations have caused or can cause excess emissions of PM, VOCs, which contribute to ozone, and HAP.

PM: PM, especially fine particulates contains microscopic solids or liquid droplets, which can get deep into the lungs and cause serious health problems. PM exposure contributes to:

- irritation of the airways, coughing, and difficulty breathing;
- decreased lung function;
- aggravated asthma;
- chronic bronchitis;
- irregular heartbeat;
- nonfatal heart attacks; and
- premature death in people with heart or lung disease.

Ozone: Breathing ozone contributes to a variety of health problems including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma. Ground-level ozone also can reduce lung function and inflame lung tissue. Repeated exposure may permanently scar lung tissue.

HAP: Excess HAP emission can cause serious health effects, such as birth defects and cancer, and harmful environmental and ecological effects.

11/27/17
Date

Edward Nam
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I certify that I sent a Notice and Finding of Violation, No. EPA-5-18-WI-02, by Certified Mail, Return Receipt Requested, to:

Kevin Meyer, Plant Manager
Container Life Cycle Management LLC
d/b/a/ Mid-America Steel Drum Company
8570 South Chicago Road
Oak Creek, Wisconsin 53154
Article # 7011 1150 0000 2643 8920

United Agent Group Inc., Registered Agent
4650 West Spencer Street
Appleton, Wisconsin 54914
Article # 7011 1150 0000 2643 8913

I also certify that I sent copies of the Notice and Finding of Violation by email to:

Maria Hill, Acting Chief,
Compliance, Enforcement, and Emission Inventory Section
Wisconsin Department of Natural Resources
Maria.Hill@wisconsin.gov

Kendra Fisher, Regional Leader
Southeast Region
Wisconsin Department of Natural Resources
Kendra.Fisher@wisconsin.gov

Ms. Linda Benfield, Attorney
Foley & Larder, LLP
lbenfield@foley.com

On the 27th day of November 2017.

Kathy Jones, Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7011 1150 0000 2643 8920