



REGION 5

CHICAGO, IL 60604

ELECTRONIC MAIL DELIVERY RECEIPT REQUESTED

Commander Luis G. Martinez
Commanding Officer
U.S. Naval Support Activity Crane Division
300 U.S. Highway 361
Crane, Indiana 47522-5009
luis.g.martinez26.mil@us.navy.mil

Re: **Notice of Potential Violation and Opportunity to Confer**
Notice of Intent to File Civil Administrative Complaint Against U.S. Naval Support Activity Crane Division
EPA I.D.: IN5170023498
Crane, Indiana

Dear Commander Martinez:

The EPA plans to file an administrative complaint for civil penalties against U.S. Naval Support Activity Crane Division ("Crane" or "you"). We will allege that Crane violated the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. §§ 6901 - 6992k, as amended, as described below. RCRA is a cradle-to-grave statute intended to ensure the proper management of hazardous wastes that could present risks to humans and the environment if handled in an unsafe manner.

From February 7 to 9, 2023 and from September 23 to 26, 2024, EPA conducted RCRA compliance evaluation inspections at Crane (the 2023 and 2024 Inspections, respectively). The final reports of those inspections were provided to Crane in May 2023 and October 2024. Based on the information observed during the 2023 and 2024 Inspections and other information available to EPA, EPA's administrative complaint will allege that Crane violated conditions of its Hazardous Waste Management Permit issued on July 10, 2019 (RCRA Permit), by the Indiana Department of Environmental Management. Crane is also a generator of hazardous waste, and conducts activities that are not covered by the RCRA Permit under regulatory permit exemptions. When a hazardous waste generator fails to comply with the conditions for a permit exemption, the generator becomes an operator of a hazardous waste storage facility without a permit, in violation of 329 Ind. Admin. Code 3.1-13-1 and 3.1-13-3(a) and (d) [40 C.F.R. §§ 270.1(c), 270.10(a), and (d)]. Many of the RCRA permit exemption conditions are also independent requirements that apply to permitted and interim status hazardous waste management facilities that treat, store, or dispose of hazardous waste (TSD requirements). When a hazardous waste generator loses its permit exemption due to a failure to

comply with an exemption condition incorporated from 329 Ind. Admin. Code 3.1-10-1, the generator: (a) becomes an operator of a hazardous waste storage facility; and (b) simultaneously violates the corresponding TSD requirement. Crane's failure to comply with certain conditions are violations of the corresponding requirements in 329 Ind. Admin. Code 3.1-9-1.

Please see the attachment for a list of the violations.

Based on information currently available to us, we plan to propose a penalty of **\$248,243** in the complaint. In developing the penalty amount proposed in a complaint, EPA considers the particular facts and circumstances of the case, as well as the factors set forth in Section 3008 of RCRA, 42 U.S.C § 6928, the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, 40 C.F.R. Part 19, EPA's RCRA Civil Penalty Policy and the Amendment to the EPA's Resource Conservation and Recovery Act (RCRA) Civil Penalty Policy to Address Generator Storage Violation Cases.

This letter is not a demand to pay a penalty. We will not ask you to pay a penalty until we file the complaint or a final order. Before filing the complaint, we are giving you the opportunity to present any information that you believe we should consider. Relevant information might include evidence that you did not violate the law; evidence that you relied on compliance assistance from EPA or a state agency; or evidence that we identified the wrong party.

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.

Please send any written responses to this letter to:

r5lecab@epa.gov

and

brown.todd@epa.gov

If you want to confer with us regarding this Notice, you should contact Todd Brown via email (above) or by phone at (312) 886-6091, requesting such a conference, within ten (10) calendar days after you receive this Notice. Please be advised that this conference is not a settlement negotiation covered by Federal Rule of Evidence 408 and we may use any information you submit in support of any administrative, civil or criminal action. After this conference (or after you have submitted a written reply), you will have an opportunity to engage in settlement negotiations before we file the complaint.

After 30 days from receipt of this letter, EPA may file a complaint without further notice against Crane as authorized under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a).

This letter is being made available to the State of Indiana as a means of notifying the State pursuant to Section 3008(a) of RCRA, as amended, that EPA is preparing to issue a formal enforcement action to Crane.

If you have any legal questions regarding this Notice, please contact James Bonar-Bridges at (312) 353-6316 or BonarBridges.James@epa.gov.

Sincerely,

Carolyn Persoon
Acting Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Enclosures

cc: Jennifer Reno, Indiana Department of Environmental Management (IDEM) (jreno@idem.in.gov)
Lori Freeman, IDEM (lfreeman@idem.IN.gov)

Attachment List of Violations

Storage of Hazardous Waste without a Permit or Interim Status and Violations of TSD Requirements.

As indicated in the letter, Crane is both a permitted TSD facility and conducts large quantity generator (LQG) activities that are not covered by the RCRA Permit under regulatory permit exemptions. At the time of the 2023 and 2024 Inspections, Crane's unpermitted LQG processes exceeded the scope of activities that may take place without a TSD permit or interim statutes, as follows:

1. Hazardous Waste Accumulation

Under 329 Ind. Admin. Code 3.1-7-1,¹ [40 C.F.R. § 262.34(a)], a large quantity generator may accumulate hazardous waste on-site for 90 days or less without a permit or interim status unless the generator has been granted an extension of the 90-day period. At the time of the 2023 inspection, the operating record indicated two containers of HCl filters and caustic filters had been stored at Building 3637 for 294 days.

2. Date When Each Period of Accumulation Begins

Under 329 Ind. Admin. Code 3.1-7-1 [40 C.F.R. § 262.34(a)(2)], a large quantity generator must clearly mark each container holding hazardous waste with the date upon which each period of accumulation begins.

At the time of the 2023 Inspection, one gaylord box of filter cake, one container of caustic filters, and one container of HCl filters located at the Building 3637 container storage area were not marked with accumulation start dates (see photographs 111 and 112 of the 2023 Inspection report).

At the time of the 2024 Inspection, one container of hazardous waste pyrotechnics in fuel oil located in Building 2883 was not marked with an accumulation start date (see photograph 32 of the 2024 Inspection report).

At the time of the 2024 Inspection, containers of hazardous waste fuses containing lead styphnate located outside of Building 3343 were not marked with accumulation start dates (see photograph 6 of the 2024 Inspection report).

3. Hazardous Waste Container Labeling

¹ Effective December 26, 2019, the State of Indiana promulgated revised regulations have not yet been authorized by EPA. EPA authorized the 2016 edition of Indiana's hazardous waste regulations, which incorporated the July 1, 2008 edition of 40 C.F.R. Part 262.34, as set forth at Ind. Admin. Code tit. 329, R. 3.1-1-7 and R. 3.1-7(2016), that remains the RCRA authorized Large Quantity Generator provision in Indiana. The rule at 329 Ind. Admin. Code 3.1-7-1 states that generators of hazardous waste must comply with 40 C.F.R Part 262, as amended.

Under 329 Ind. Admin. Code 3.1-7-1 [40 C.F.R. § 262.34(a)(3)], a large quantity generator must label or clearly mark each container holding hazardous waste with the words “Hazardous Waste.”

At the time of the 2023 Inspection, the following containers were not marked with the words “Hazardous Waste.”

- a) Building 2707: One plastic container of acidic inductively coupled argon plasma optical emission spectrometer wastewater (photograph 50 of the 2023 Inspection report);
- b) Building 200: Two ammunition waste containers at a satellite accumulation area;
- c) Building 3637: One gaylord box of filter cake (photograph 111 of 2023 Inspection report); and
- d) Building 3637: Two 5-gallon jugs of lab waste (photographs 108 and 109 of the 2023 Inspection report).

At the time of the 2024 Inspection, containers of hazardous waste fuses containing lead styphnate outside of Building 3343 were not labeled or marked with the words “Hazardous Waste” (see photograph 6 of the 2024 inspection report).

The permit exemption conditions identified below are also independent TSD requirements violated by Crane:

4. Maintenance and Operation of Facility

Under 329 Ind. Admin. Code 3.1-7-1 [40 C.F.R. §§ 262.34(a)(4) and 265.31], a large quantity generator must maintain and operate its facility to minimize the possibility of a 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.

On July 5 and 6, 2022, wooden crates containing approximately 114,729 pounds of red phosphorous that was awaiting processing in the Building 69 caught fire. The fire was the result of storing the mortar rounds outside, under a tarp for about a week when daily high temperatures averaged 96 to 99 °F. Red phosphorus can react with moisture and heat to form phosphine gas, which auto ignites at 100°F. Crane stored the red phosphorous in a way that did not minimize the possibility of a fire, considering the autoignition temperature of phosphine.

At the time of the 2024 Inspection, Respondent was storing approximately 20,000 lbs of aluminum powder at Building 715. Building 715 is an earth-covered magazine subject to dampness and leaks of water from the concrete roof. The aluminum powder was not stored under a blanket of inert gas. The safety data sheet for this material states it is moisture and air

sensitive, and that the material should be stored away from air and moisture, but instead under dry, inert gas. Crane stored the aluminum powder in a way that did not minimize the possibility of a fire or explosion.

5. Use and Management of Containers

Under 329 Ind. Admin. Code 3.1-7-1 [40 C.F.R. §§ 262.34(a)(1)(i) and 265.173(a)], a large quantity generator must always keep a container holding hazardous waste closed during storage, except when it is necessary to add or remove waste. At the time of the 2023 Inspection, the following containers of hazardous waste were left open when waste was not being added or removed:

- a. Building 200: Three satellite accumulation containers for “scrap IR components in mineral oil,” (photograph on page 61 of Attachment B of the 2023 inspection report) “MJU comp,” and “scrap IR comp;”
- b. Building 2707: Two satellite accumulation containers of acidic and basic corrosive waste (photographs 45 and 46 of the 2023 inspection report);
- c. Building 198: One drum of explosive hazardous waste to which mineral oil is added; one container of hexane and acetone; and one 55-gallon container of arsenic containing condensation accumulated from the building’s attic.

6. Condition of Containers

Under 329 Ind. Admin. Code 3.1-7-1 [40 C.F.R. §§ 262.34(a)(1)(i) and 265.171], if a container holding hazardous waste is not in good condition, or if it begins to leak, a large quantity generator must transfer the hazardous waste from this container to a container that is in good condition, or manage the waste in some other way that complies with the requirements of this part.

At the time of the 2023 Inspection, the lid for one container of hazardous waste scrap IR components in mineral oil and one container of hazardous waste air respirator filters, at Building 200, were significantly rusted.

Other Violations

Crane violated the following universal waste requirement and conditions of its RCRA permit:

7. Universal Waste

Under 329 Ind. Admin. Code 3.1-16-1 [40 C.F.R. § 273.33(d)(1)], handlers of universal waste lamps must contain any lamp in containers or packages that are closed.

At the time of the 2023 Inspection, one box of universal waste lamps in Building 2748 was not closed.

8. Storage of Incompatible Waste

Condition III.I.3 of Crane's RCRA permit requires it to separate containers of incompatible wastes as indicated in the Section D, Process Information, Attachment I. 329 Ind. Admin. Code 3.1-9-1(a) [40 C.F.R. § 264.177(c)] requires that a storage container holding a hazardous waste that is incompatible with any waste or other materials stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

At the time of the 2023 Inspection, one container of reactive hydrogen peroxide waste was stored adjacent to containers of ignitable organic solvents and alcohols, without use of a separating dike, berm, wall, or other device. Hydrogen peroxide, a strong oxidizer, reacts with organic solvents and alcohols to produce heat, fire and toxic gas.

At the time of the 2024 Inspection, containers of hydrogen peroxide waste were stored next to containers of acidic waste and lead-acid batteries. Mixing hydrogen peroxide with acids can produce heat, gas and explosions.

9. Restrictions on Open Burning

Condition VII.C.3 of Crane's hazardous waste management permit restricts open burning under certain weather conditions and requires that compliance with these condition be documented in the operating record for each event.

At the time of the 2023 Inspection, the operating record indicated that Crane open burned on seven days when recorded weather observations were out of compliance with burning restrictions. The operating record did not record burn times, relative to weather observations, for the period of July 12, 2021 through February 14, 2023. Crane stated in a February 1, 2024 written response to an EPA request for information that "[t]he personnel responsible for recording the weather conditions were only recording the weather conditions on a schedule, (i.e. morning and noon), and not in conjunction with burning/detonation events. This led to the appearance of conducting operations outside of the requirements."

10. Hazardous Waste Training Documentation

Section II.F of Crane's hazardous waste management permit requires Crane to provide annual training according to the outline in Section H of permit attachments O through V. 329 Ind. Admin. Code 3.1-9-1(a) [40 C.F.R. § 264.16(c)] requires facility personnel take part in annual classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of 40 C.F.R. Part 264.

Training records reviewed at the time of the 2023 Inspection indicated that Doug Johnson and Matthew Brindle, who have significant hazardous waste management responsibilities for the Navy and the Army, respectively, were not on the list of people who received RCRA refresher training in 2022.

11. Emergency Coordinators

Section II.I.3. of Crane's hazardous waste management permit requires that Crane review and immediately amend, if necessary, the facility contingency plan when required by 329 Ind. Admin. Code 3.1-9 and 40 C.F.R. § 264.54. 40 C.F.R. § 264.54(d) requires the contingency plan to be amended when the list of emergency coordinators changes.

At the time of the 2023 Inspection, all three of the emergency coordinators listed in Crane's contingency plan were retired.

12. Contingency Plan Copies

Section II.I.2 of Crane's hazardous waste management permit and 329 Ind. Admin. Code 3.1-9-1(a) [40 C.F.R. § 264.53(b)] requires that Crane submit a copy of its contingency plan to local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

At the time of the 2023 Inspection, Crane could not demonstrate that they had submitted the most recent contingency plan to local authorities, in violation of RCRA.

Area of Concern

Finally, EPA is concerned that Crane's storage of red phosphorus after the July 2022 fire may have violated the prohibition in 329 Ind. Admin. Code 3.1-7-1 for large quantity generators to accumulate hazardous waste on-site for more than 90 days. Our understanding at this time is that Crane no longer stores any red phosphorus related to the July 2022 fire at the facility.