



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

LU-9J

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF:

May 17, 2016

Radio Materials Corporation
c/o Joseph F. Riley, Jr.
1095 E. Summit St.
Attica, Indiana 47918

Re: Radio Materials Corporation Facility (Attica, Indiana)
EPA No. IND 005 477 021
RCRA § 3008(h) Consent Order
Identification of New Interim Measure – Container/Material Management/Storage

Dear Mr. Riley:

As you know, the U. S. Environmental Protection Agency (“U.S. EPA” or “Agency”) inspected the Radio Materials Corporation (“RMC”) facility in Attica, Indiana, on August 21, 2015. Michael Valentino of U.S. EPA’s Land & Chemicals Division, RCRA Branch, RCRA Compliance Section 2, conducted (1) a Focused Compliance Evaluation Inspection to determine the compliance status of RMC with respect to certain requirements of the Consent Order (Corrective Action Interim Measures Evaluation Report, December 30, 2015) and (2) a Focused Compliance Evaluation Inspection to determine the compliance status of RMC with respect to certain provisions of the Resource Conservation and Recovery Act (“RCRA”) – specifically, the Standards Applicable to Generators of Hazardous Waste, Standards for Land Disposal Restrictions, and Management of Used Oil set forth at 329 Indiana Administrative Code Part 325 and Title 40 of Code of Federal Regulations (40 CFR) Parts 262 to 265, 268 and 279, respectively (see Attachment A).

As a result of the second inspection described above, Mr. Valentino has identified serious container/material management/storage concerns at the RMC facility. These concerns include the long-term storage of multiple materials, possibly including solid and hazardous waste, in various buildings at the facility. Further, those materials are in some cases being stored in containers which are clearly deteriorating and spilling inside the building. Many of the materials being stored are in unlabeled containers. U.S. EPA is very concerned that the failure of RMC to characterize the materials, as well as label and regularly inspect the containers in which they are located, constitute a potential threat to human health and/or the environment.

As a result of his inspection, Mr. Valentino consulted with me and others at U.S. EPA. We have determined that while U.S. EPA has several options available to address these container/material

management/storage concerns at the RMC facility (including but not limited to a possible RCRA enforcement action and/or action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended), it is appropriate at this time to address these concerns through the above-referenced Consent Order. Please note that this letter in no way limits the ability of U.S. EPA or any other federal, state or local government entity to pursue future action regarding these container/material management/storage concerns pursuant to any other statutory/regulatory authority.

By this letter U.S. EPA is notifying RMC that the Agency has identified the need for an Interim Measure pursuant to Paragraph VIII.B.3 of the Consent Order. Based on the August 21, 2015 inspection by Mr. Valentino, U.S. EPA has determined that there is an immediate or potential threat to human health and/or the environment posed by the improper management and/or storage of materials at the RMC facility.

U.S. EPA requires RMC to characterize the materials which are stored inside of all buildings at the RMC Facility (including but not limited to materials stored in Buildings 2, 4, 4B, 5, 6, 7 and 8 at the RMC facility) as solid waste, hazardous waste, or other material, as required by the Standards Applicable to Generators of Hazardous Waste, Standards for Land Disposal Restrictions, and Management of Used Oil set forth at 329 Indiana Administrative Code Part 325 and Title 40 of Code of Federal Regulations (40 CFR) Parts 262 to 265, 268 and 279, respectively.¹ After characterization is complete, U.S. EPA requires RMC to properly treat/store/dispose of all material identified as solid or hazardous waste.

The Interim Measure shall be undertaken pursuant to Section VIII. of the Consent Order. Pursuant to Section VIII.B.4., RMC is required to submit an Interim Measures Workplan described in Attachment I to the Consent Order (see Attachment B) **within thirty (30) days of receipt of this letter.**

U.S. EPA is aware that Kraft Foods Global, Inc., has previously assisted RMC with Consent Order activities. If Kraft will be assisting RMC with this Interim Measure, please inform U.S. EPA at your earliest convenience.

¹ Of particular concern to U.S. EPA is material which RMC claimed to be raw material or finished product. For any material which RMC is claiming to be raw material or finished product, U.S. EPA expects that RMC will thoroughly explain the factual basis for the claim, including but not limited to:

1. how long the product has been stored at the RMC facility;
2. the condition of the container in which the material is stored;
3. a description of any labeling on the container in which the material is located;
4. any efforts by RMC to locate a buyer for the materials since storage of the material at RMC began;
5. the record of sales by RMC of the materials since storage of the material at RMC began; and
6. efforts undertaken by RMC to safeguard the value of the materials since storage of the material at RMC began.

Thank you for your attention to this matter. You can contact me at (312) 886-1660 with any questions regarding this matter.

Sincerely yours,



Bhooma Sundar
Project Manager
Corrective Action Section 2

Attachment A - Focused Compliance Inspection Report – Hazardous Waste/Used Oil
Compliance

Attachment B - RMC Administrative Order on Consent with Attachment 1

cc: Brian Shuttleworth
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