



State of Utah

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Department of
Environmental Quality

Alan Matheson
Executive Director

DIVISION OF WASTE MANAGEMENT
AND RADIATION CONTROL
Rusty Lundberg
Acting Director

February 25, 2019

Balchem Corporation
c/o Michael House, Warehouse Manager
Balchem Albion Central Warehouse
1774 West 2880 South
Ogden, UT 84401

CERTIFIED MAIL
7005 0390 0000 7508 6385

RE: Notice of Violation and Compliance Order No. 1901005
UTR000014258

Dear Mr. House:

Enclosed is a **NOTICE OF VIOLATION (NOV) AND COMPLIANCE ORDER (NOV/CO)** Number **1901005**, based on findings documented by the Division of Waste Management and Radiation Control during a compliance evaluation inspection on December 21, 2018.

You have 30 days from the date of the attached NOV to contest it in the manner and within the time period prescribed by R305-7-303 of the Utah Administrative Code.

If you have any questions, please call Denny Schantz at (801) 536-0212.

Sincerely,

Rusty Lundberg, Acting Director
Division of Waste Management and Radiation Control

RL/DS/kl

c: Travis Larsen, Registered Agent
Brian Bennion, Health Officer, Weber-Morgan Health Department
Michela Harris, Environmental Health Director, Weber-Morgan Health Department
Annette Maxwell, US EPA, Region VIII, ENF-R

DSHW-2019-000804

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In the Matter of:	:	NOTICE OF VIOLATION and
	:	COMPLIANCE ORDER
Balchem Corporation	:	No. 1901005
UTR000014258	:	

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This **NOTICE OF VIOLATION (NOV) and COMPLIANCE ORDER** is issued by the Director of the Division of Waste Management and Radiation Control pursuant to the Utah Solid and Hazardous Waste Act (the Act), Utah Code Ann. § 19-6-101, *et seq.* The Director has authority to issue such NOTICES in accordance with Utah Code Ann. § 19-6-112.

FINDINGS

1. Balchem Corporation (“Balchem”) is a Maryland corporation licensed to do business in the State of Utah. Balchem is the owner and operator of the Balchem Albion Central Warehouse Facility located at 1774 West 2880 South, Ogden, UT 84401.
2. Balchem is a "person" as defined in Utah Code Ann. § 19-1-103(4) and is subject to all applicable provisions of the Act, the Utah Administrative Code (Rules).
3. Generators of hazardous waste are classified in three categories, very small quantity generators, small quantity generators, and large quantity generators. These categories are defined in defined in R315-262-14, R315-262-16, and R315-262-17, respectively, of the Utah Admin. Code.
4. Under R315-262-231(a), an “[e]pisodic event” occurs when a generator generates more hazardous waste in a calendar month than the quantity limits for the generator’s usual category.
5. R315-262-232(b)(5) of the Utah Administrative Code requires that hazardous wastes generated by a small quantity generator (SQG) during an episodic event be treated on site or manifested and shipped off site to a designated facility within sixty calendar days from the start of the episodic event.
6. On April 10, 2018, the Balchem Albion Central Warehouse, located at 1774 West 2880 South, Ogden, UT 84401 submitted EPA Form 8700-12 to notify the Director of an episodic generation event with a beginning date of April 10, 2018 and an ending date of April 30, 2018. Balchem reported that an estimated quantity of 20,500 pounds of D010 (selenium) characteristic hazardous waste would be generated as a result of this event. Balchem also submitted to the Director a RCRA Subtitle C Site Identification Form, identifying itself as a Small Quantity Generator (SQG) of hazardous waste and requesting an EPA Identification Number.
7. An authorized representative of the Division of Waste Management and Radiation Control conducted a compliance evaluation inspection at the Balchem Albion Central Warehouse on December 21, 2018 and documented the following:

- a. On December 4, 2018, Balchem shipped ten pallets of material off site on Manifest ZZ 00529917 to Veolia ES Technical Solutions, L.L.C., 9131 East 96th Ave, Henderson, CO 80640, the final destination facility. The material was manifested as non-hazardous waste, with a net weight of 20,562 pounds. The inspector was informed by Balchem personnel that this had been the material generated during the episodic event reported to have started on April 10, 2018. Veolia ES Technical Solutions, L.L.C., told a Balchem representative that the material was still located at the transporter's transfer facility in Utah, and had not yet been shipped to the designated disposal facility in Colorado.
8. R315-262-232(b)(4)(i) of the Utah Administrative Code requires that hazardous waste containers generated by a SQG during an episodic event be marked or labeled with the words "Episodic Hazardous Waste", with an indication of the hazards of their contents, and with the date upon which the episodic event began.
 - a. On December 28, 2018, authorized representatives of the Division of Waste Management and Radiation Control conducted a site visit at the Veolia ES Technical Solutions, L.L.C. transfer facility, located at 709 North Taylor Way, North Salt Lake, UT 84054. The purpose of the visit was to document that the ten pallets of material shipped on manifest ZZ 00529917 were still at the transfer facility and to perform characterization verification sampling on the material.
 - b. Inspectors observed that the material was still at the Veolia transfer facility and had been shipped to the transfer facility in its original product packaging (fiber bags), and stacked on pallets that were shrink-wrapped on the outside faces. No waste labeling or marking that displayed the words "Episodic Hazardous Waste," dates, or indications of hazards were observed on individual bags of material by inspectors. The only observed waste-related labels displayed the words "Non Regulated Material" and "Non Hazardous Waste." These labels were present on the outer shrink-wrapped surfaces of the pallets.
 9. R315-262-16(b)(1) of the Utah Administrative Code prohibits a SQG from accumulating more than 13,200 pounds of hazardous waste on site at any one time.
 - a. As stated in paragraph 6. above, Balchem notified the Director on EPA Form 8700-12 that the beginning date of the episodic generation event was April 10, 2018. All episodic hazardous waste should have been shipped off site on or before June 9, 2018, based upon the 60-day time limit set by R315-262-232(b)(5), Utah Admin. Code for on-site treatment or off-site disposal of hazardous waste generated during an episodic event.
 - b. Balchem did not ship the hazardous waste generated from the episodic event off site until December 4, 2018, and had 20,562 pounds of hazardous waste on site between June 10, 2018 and December 4, 2018, a period of 178 days, while in a SQG status.
 10. R315-262-11 of the Utah Administrative Code requires a person who generates a solid waste to make an accurate determination as to whether that waste is a hazardous waste. R315-261-24, Utah Admin. Code, states that if a solid waste contains selenium at a concentration equal to or greater than 1.0 milligrams per liter (mg/L), as measured by the Toxicity Characteristic Leachate Procedure (TCLP), it exhibits the characteristic of toxicity and is therefore hazardous waste. That characteristic hazardous waste has the EPA Hazardous Waste Number of D010. The inspector documented the following during the December 21, 2018 inspection, and from the

analytical results of the December 28, 2018 sampling of the waste received by the Division of Waste Management and Radiation Control on January 15, 2019:

- a. During the December 21, 2018 inspection, the inspector was informed by Mr. House that he had worked with Veolia ES Technical Solutions to develop a knowledge-based waste profile for the “Selenium Glycinate Complex” product that was shipped as a solid waste on manifest ZZ 00529917 on December 4, 2018. The basis for the profile was safety data sheet (SDS) information and product data sheet information that Balchem supplied to Veolia ES Technical Solutions personnel. At a later time on December 21, 2018, Mr. Schmanski arrived to join the inspection, and informed the inspector that the “Selenium Glycinate Complex” product that was disposed of as a solid waste had been sampled in early 2018 and analyzed using a Selenium TCLP procedure, and that the TCLP results had demonstrated it to be a hazardous waste.
 - b. The inspector documented that Balchem had tested samples of the Selenium Glycinate Complex product that were taken on February 16, 2018, by specifying that a TCLP for Selenium be performed. Four separate grab samples were analyzed, and the results showed selenium concentrations of 530 mg/L, 510 mg/L, 530 mg/L and 530 mg/L respectively, all in excess of the 1.0 mg/L standard of R315-261-24, Utah Admin. Code.
 - c. The waste profile number 400545, developed by Veolia and Balchem for disposal of the Selenium Glycinate Complex, represented the waste as a non-hazardous waste.
 - d. On December 28, 2018, authorized representatives of the Division of Waste Management and Radiation Control conducted sampling of the Selenium Glycinate Complex episodic waste (manifest number ZZ 00529917) from the ten pallets stored at Veolia ES Technical Solutions transfer facility in Salt Lake. Analytical results of five grab samples of that material showed levels exceeding the toxicity limit for selenium.
 - e. Based upon both Balchem’s analytical testing from February 16, 2018 samples, as well as samples taken by inspectors on December 28, 2018, the selenium concentration in Balchem’s Selenium Glycinate Complex waste shows that this waste exhibits the Toxicity Characteristic set out in R315-261-24 and should be managed as a hazardous waste.
11. R315-262-232(b)(4)(i) of the Utah Administrative Code requires that SQG’s accumulating episodic hazardous waste in containers must satisfy the requirements in R315-262-16(b)(2) Utah Admin. Code. R315-262-16(b)(2)(iv) Utah Admin. Code requires weekly inspections of hazardous waste containers to be performed.
- a. Balchem personnel stated that they did not have a process for conducting weekly inspections of containers; nor was the inspector able to view any records of weekly inspections being performed on the episodic hazardous waste during the period that it was present at the site.
12. R315-262-20(a)(1) Utah Admin. Code requires SQG’s who offer a hazardous waste for transport to an offsite designated facility to properly prepare an authorized uniform manifest.
- a. The inspector documented that Balchem did not use an authorized uniform hazardous waste manifest (EPA Form 8700-22) to conduct the offsite shipment that occurred on December 4, 2018.

- b. The inspector documented that Balchem did not indicate that the waste being shipped carried a D010 characteristic waste code, and was therefore hazardous waste.
- c. The inspector noted that because the waste was a hazardous waste, the "Non Regulated Material" proper U.S. DOT shipping name was not appropriate for a hazardous waste.

DETERMINATION OF VIOLATIONS

Based on the foregoing FINDINGS, Balchem has violated provisions of the Rules, and the Act, applicable to its facility. Specifically, Balchem has violated the following:

1. R315-262-232(b)(5) of the Utah Administrative Code by failing to ship episodic hazardous wastes off site within sixty days from the start of the episodic event.
2. R315-262-232(b)(4)(i) of the Utah Administrative Code by failing to label or mark containers of the episodic hazardous wastes with the required information.
3. R315-262-16(b)(1) of the Utah Administrative Code by accumulating more than 13,200 pounds of hazardous waste on site during the period between June 10, 2018 and December 4, 2018 (178 days).
4. R315-262-11 of the Utah Administrative Code by failing to make a proper and accurate waste determination on the "Selenium Glycinate Complex" material that was being disposed of as a waste. The waste was incorrectly profiled and shipped as a non-hazardous waste.
5. R315-262-232(b)(4)(i) of the Utah Administrative Code by failing to conduct weekly inspections on episodic hazardous waste during the period it was being accumulated on site.
6. R315-262-20(a)(1) of the Utah Administrative Code by failing to properly manifest a hazardous waste for offsite shipment.

ORDER

1. Balchem Corporation is hereby ordered to provide analytical data packages for sampling events occurring on February 16, 2018 and December 28, 2018 within 30 days from the date of this NOV/CO.

OPPORTUNITY FOR HEARING

This NOTICE OF VIOLATION is effective immediately and shall become final unless Balchem administratively contests it. Failure to contest this NOTICE OF VIOLATION in the manner and within the time period prescribed by R305-7-303 constitutes a waiver of any right of administrative contest, reconsideration, review, or judicial appeal.

Utah Code Ann. Section 19-6-113(2) provides that violation of any order, plan, rule, or other requirement issued or adopted under Title 19, Ch. 6, Pt. 1 may be subject to a civil penalty of up to \$13,000 per day for each day of violation.

Dated this 25th day of February, 2019

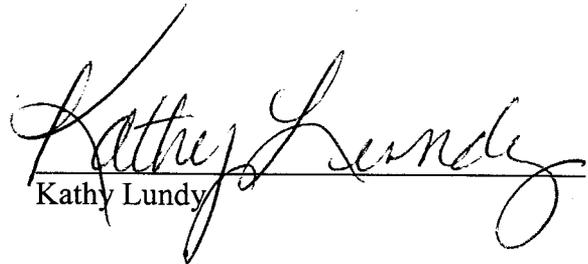
By: Rusty Lundberg
Rusty Lundberg, Acting Director
Division of Waste Management and Radiation Control

CERTIFICATE OF MAILING

I HEREBY CERTIFY that I mailed a true and correct copy of the foregoing **Notice of Violation and Compliance Order No. 1901005** on: **the 25 day of February, 2019** by **US Certified Mail, Return receipt Requested**, to:

Balchem Corporation
c/o Michael House, Warehouse Manager
Balchem Albion Central Warehouse
1774 West 2880 South
Ogden, UT 84401

Travis Larsen, Registered Agent
67 South Main Street, Suite 100
Layton, UT 84041


Kathy Lundy

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**BALCHEM CORPORATION
C/O MICHAEL HOUSE WAREHOUSE MANAGER
BALCHEM ALBION CENTRAL WAREHOUSE
1774 WEST 2880 SOUTH
OGDEN UT 84401**

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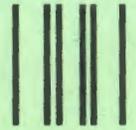
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