



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION I  
1 CONGRESS STREET, SUITE 1100, BOSTON, MA 02114

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July 1, 2009

**VIA HAND-DELIVERY**

Ms. Wanda Santiago  
Regional Hearing Clerk  
U.S. Environmental Protection Agency  
Region I  
1 Congress Street, Suite 1100 (RAA)  
Boston, MA 02114-2023

**Re: In the Matter of H. Krevit & Company, Inc., Docket No. CAA-01-2009-0069**

Dear Ms. Santiago:

Enclosed for filing please find a Notice of Violation, Administrative Order, and Reporting Requirement in the above-captioned matter.

Sincerely,

Catherine Smith  
Senior Enforcement Counsel  
U.S. Environmental Protection Agency  
Region I

Enclosure

cc: Thomas Ross, President, H. Krevit & Company, Inc.  
Donald DeChello, Vice President, H. Krevit & Company, Inc.

In Re: H. Krevit & Company, Inc.  
EPA Docket Number: CAA-01-2009-0069

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Violation, Administrative Order, and Reporting Requirement (NOV, AO, RR) has been sent to the following persons on the date noted below:

Original and one copy,  
hand-delivered:

Wanda Santiago  
Regional Hearing Clerk (RAA)  
U.S. EPA, Region I  
One Congress Street, Suite 1100  
Boston, MA 02114-2023

Copy of NOV, AO, RR  
First Class Mail,  
Return Receipt requested:

Thomas Ross, President  
H. Krevit & Company  
73 Welton St.  
New Haven, CT 06534

Dated: July 1, 2009



Catherine Smith, Esq.  
U.S. Environmental Protection Agency,  
Region 1  
Mail Code (SES)  
One Congress Street, Suite 1100  
Boston, MA 02114-2023  
Tel (617) 918-1777  
FAX (617) 918-0077

RECEIVED

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1 - NEW ENGLAND

EPA ORC  
OFFICE OF  
REGIONAL HEARING CLERK

IN THE MATTER OF )

Docket No. CAA-01-2009-0069

H. Krevit & Company, Inc. )

73 Welton Street )

New Haven, CT 06534 )

NOTICE OF VIOLATION,  
ADMINISTRATIVE ORDER,  
AND  
REPORTING REQUIREMENT

Proceeding under Sections )  
113 and 114 of the Clean Air Act )

**INTRODUCTION**

1. The United States Environmental Protection Agency Region I ("EPA") issues this Notice of Violation, Administrative Order, and Reporting Requirement ("NOV," "AO," and "RR") to H. Krevit & Company, Inc. ("Krevit" or "Respondent") for failure to (a) identify, evaluate and control hazards at its New Haven, Connecticut, facility; and (b) develop and submit a Risk Management Plan ("RMP") for the storage and processing of hydrochloric acid, in violation of Section 112(r) of the Clean Air Act ("CAA" or the "Act"), 42 U.S.C. § 7412(r), and implementing regulations set forth at 40 C.F.R. Part 68.
2. The NOV and AO are issued under the authority of Section 113 of the CAA, 42 U.S.C.

each regulated substance a threshold quantity over which an accidental release is known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health. Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), requires EPA to promulgate requirements for the prevention, detection, and correction of accidental releases of regulated substances, including a requirement that owners or operators of certain stationary sources prepare and implement a Risk Management Plan (“RMP”).

5. Pursuant to Section 112(r)(7) of the CAA, 42 U.S.C. § 7412(r)(7), EPA promulgated RMP regulations, found at 40 C.F.R. §§ 68.1-68.220 (“Part 68”).

6. 40 C.F.R. § 68.130 lists the substances, and their associated threshold quantities, regulated under Part 68 (“RMP chemicals” or “regulated substances”).

7. Under 40 C.F.R. § 68.10, an owner or operator of a stationary source that has more than a threshold quantity of a regulated substance in a process must comply with the requirements of Part 68 by no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process.

8. Each process in which a regulated substance is present in more than a threshold quantity (“covered process”) is subject to one of three risk management programs. Program 3 is the most comprehensive, and Program 1 is the least comprehensive. Under 40 C.F.R. § 68.10(b), a covered process is subject to Program 1 if, among other things, the distance to a toxic or flammable endpoint for a worst-case release assessment is *less* than the distance to any public receptor. Under 40 C.F.R. § 68.10(d), a covered process is subject to Program 3 if the process does not meet the eligibility requirements for Program 1 and is either in specified NAICS codes

sodium hydroxide pellets. Krevit sells its products primarily to the water treatment and metal finishing industries.

15. On December 16, 2008, EPA conducted a Clean Air Act 112(r) and Emergency Planning Community Right-to-Know Act ("EPCRA") inspection at Krevit.

16. Krevit processes chlorine, an RMP chemical, at the Facility. EPA inspectors observed another RMP chemical at the Facility, hydrochloric acid solution having a concentration of 38% hydrochloric acid ("hydrochloric acid 38%"). Other chemicals found at the Facility, such as hydrochloric acid 34%, nitric acid 67%, sulfuric acid, sodium hydroxide, sodium hypochlorite, fluorosilicic acid, and phosphoric acid, are, alone or in combination with other chemicals, "extremely hazard substances" subject to the General Duty Clause of the CAA.

17. Krevit has a Program 3 Risk Management Plan for its chlorine process.

18. Hydrochloric acid solution having a concentration of at least 37% is a RMP chemical listed at 40 C.F.R. § 68.130. It has a threshold quantity of 15,000 pounds.

19. The EPA inspectors obtained shipping records, dated May 30, 2008 and September 25, 2008, which showed that Krevit shipped containerized loads of hydrochloric acid 38% (also called muriatic acid 23 degrees baume) to Roberts Chemical Co., in Pawtucket, Rhode Island. Each shipment was for approximately 46,420 pounds of hydrochloric acid 38%, which exceeds the threshold quantity for that RMP chemical. A bill of lading from Canada reflects that Krevit received a shipment of 46,420 pounds of hydrochloric acid 38% from Canada on September 24, 2008.

20. During at least 2008, Krevit stored more than the threshold amount of regulated hydrochloric acid in a "covered process," as that term is defined at 40 C.F.R. § 68.3.

a shallow bermed area immediately adjacent to another bermed area that contained tanks of sulfuric acid, nitric acid and hydrochloric acid 38%. Nitric acid can react with hydrochloric acid to create a fire or explosion and can also create toxic or flammable gasses. Also, the acids were piped directly over the sodium hydroxide tank berm, such that any simultaneous leaking from the pipes and tank could result in a reaction between the acids and the sodium hydroxide. A reaction of any one of these acids with sodium hydroxide could result in fire or explosion, with the generation of toxic and corrosive fumes.

- iii. In the Main Building, inspectors observed co-located nitric, hydrochloric acid (less than 37%) and sodium hydroxide containers, some stacked four high (See #39, 33 and 34). The chemical reaction resulting from a mixture of these chemicals can create a fire or explosion, with a generation of toxic and corrosive fumes. Moreover, stacking the containers four-high can make the stack unstable such that containers are more likely to fall and rupture, releasing their contents.
- iv. In Building #5, inspectors observed a tank of nitric acid stored in the same containment area with hydrochloric acid (less than 37%). The reaction of those two chemicals can create a fire or explosion and can also liberate flammable and toxic gases.
- v. In Building # 5, the inspectors also observed bulk tanks of sulfuric acid, nitric acid and hydrochloric acid all in a row without adequate separation between the tanks. The chemical reaction resulting from a mixture of these chemicals could initiate a fire or explosion and liberate flammable and toxic gases.

c. ***Open or unlabeled containers:*** Inspectors observed several instances where chemical containers were unlabeled or open, creating a threat of release and danger to employees or emergency responders.

i. Outside, near the sodium hydroxide building area, inspectors observed approximately 12 containers that were not labeled with words that described their contents. It appeared from numbers on the containers that some of them contained corrosive chemicals. Also, some of these containers were open.

ii. In Building #5, two tanks of sulfuric acid were open.

d. ***Lack of Temperature Control/Protection from Elements:*** Outside, the inspectors observed containers of nitric acid, although nitric acid should be kept in dry, cool locations. Nitric acid can react with water to produce heat and toxic fumes.

e. ***Broken chlorine scrubber:*** Inspectors were informed by Facility personnel that the chlorine air scrubber on the sodium hypochlorite container-filling process was broken. This scrubber is designed to remove chlorine gas emissions from the process. A broken scrubber could result in the discharge of toxic chlorine gas to the environment.

f. ***Insufficient automatic safety devices or gas detectors:*** The chlorine gas detector was located in a place where it could be easily damaged, under a desk that is used by Krevit's staff.

## VIOLATIONS

### FAILURE TO IDENTIFY, EVALUATE, AND CONTROL HAZARDS

23. The allegations in paragraphs 11 to 22 are hereby incorporated by reference.

24. 40 C.F.R. §§ 68.50 and 68.67 require the owner or operator of Program 2 and 3 processes to perform an initial process hazard analysis/review ("hazard evaluation") on covered

hazardous substances” subject to the requirements of General Duty Clause. These deficient storage practices constitute a failure to identify hazards and maintain a safe facility, taking such steps as are necessary to prevent releases.

30. Accordingly, Krevit violated the requirements to identify and control hazards found in 40 C.F.R. § 68.50 (RMP Program 2), 68.67 (RMP Program 3) and Section 112(r)(1) of the CAA, 42 U.S.C. § 7412(r)(1) (General Duty Clause).

#### **FAILURE TO SUBMIT A COMPLETE RISK MANAGEMENT PLAN**

31. Allegations numbered 11 to 30 are hereby incorporated by reference.

32. Under 40 C.F.R. §§ 68.10(a) and 68.12(a), an owner or operator of a stationary source subject to Part 68 must submit an RMP no later than the latest of the following dates: (a) June 21, 1999; (b) three years after the date on which a regulated substance is first listed under 40 C.F.R. § 68.130; or (c) the date on which a regulated substance is first present above a threshold quantity in a process. 40 C.F.R. §§ 68.150-68.185 specify the required elements of the RMP. The RMP for a Program 2 process documents compliance with the elements of a Program 2 Risk Management Program, including 40 C.F.R. § 68.12 (General Requirements); 40 C.F.R. §§ 68.15 (Management System to Oversee Implementation of RMP); 40 C.F.R. Part 68, Subpart B (hazard assessment to determine off-site consequences of a release); 40 C.F.R. Part 68, Subpart C (Program 2 Prevention Program); and 40 C.F.R. Part 68, Subpart E (Emergency Response Program).

33. Krevit failed to submit an RMP documenting compliance with the elements of a Program 2 Risk Management Program for its hydrochloric acid 38%. Specifically, it did not develop management systems for the hydrochloric acid; conduct a hazard assessment for the

order, Krevit shall comply with 40 C.F.R. §§ 68.50, 68.67, 68.79, and the General Duty Clause, 42 U.S.C. § 7412(r)(1), in the following manner:

(a) properly separate and store incompatible chemicals at the Facility, following generally-accepted standards, such as the National Fire Protection Association (NFPA) Code (2008) Chapter 30; International Fire Code (IFC) Chapter 27; the Resource Conservation and Recovery Act, 42 C.F.R. § 264, guidelines contained in the American Institute of Chemical Engineers (“AIChE”) *Guidelines for Safe Warehousing of Chemicals*, 2.6, and other applicable industry standards and practices, local codes, and state and federal regulations.

(b) establish a written protocol to ensure that incompatible materials are separated in the future;

(c) document that incompatible chemicals at the Facility have been properly separated, following the procedures contained in Appendix 1 to this NOV/AO/RR and ;

(d) develop and submit to EPA a work plan and schedule to conduct a hazard analysis of the Facility pursuant to 40 C.F.R. §§ 68.50 and 68.67 and the General Duty Clause, 42 U.S.C. § 7412(r)(1). This schedule and work plan, once approved by EPA, shall be enforceable under this AO. Krevit shall complete the hazard analysis as soon as possible, but no later than September 15, 2009, and the hazard analysis shall contain, at a minimum, the following elements:

- (i) For chemicals and processes regulated under 40 C.F.R. Part 68, the elements required under 40 C.F.R. §§ 68.67 and 68.50;
- (ii) For other extremely hazardous substances, an assessment pursuant to the General Duty Clause of all the hazards that could result from an accidental release of such substances, including, but not limited to an

(b) complete an RMP that documents compliance with the Program 3 requirements, in accordance with the requirements for such plans found in 40 C.F.R. §§ 68.150-68.185;

(c) submit the RMP electronically, in accordance with the submittal directions found at [www.epa.gov/emergencies/content/rmp/index.htm#submitting](http://www.epa.gov/emergencies/content/rmp/index.htm#submitting); and

(d) mail a copy of the RMP and supporting documentation to the people listed in paragraph 41.

41. Notice: Submit all notices, schedules, workplans, and documentation required by this order to:

Len Wallace  
Environmental Scientist, OES  
EPA Region 1,  
Mailcode: SER  
1 Congress St. Suite 1101  
Boston, MA 02114

Catherine Smith, Esq.  
Senior Enforcement Counsel, OES  
EPA Region 1  
Mailcode SES  
1 Congress St. Suite 1101  
Boston, MA 02114.

### **REPORTING REQUIREMENT**

42. Pursuant to Section 114(a)(1) of the CAA, Krevit shall submit the following information to EPA as soon as possible but within no more than sixty (60) days of receipt of this NOV, AO, and RR:

- a. From June 30, 2004 to the present, indicate whether Krevit has had on site any of the substances listed under 40 CFR § 68.130 (including but not limited to hydrochloric acid 37%). If yes, list the substances, the years in which they were present, the amount present in each year; and where on the Facility such substances were managed.

the burden of proof with respect to violations which continue following issuance of a notice of violation.

44. Be advised that issuance of this NOV and AO does not preclude EPA from electing to pursue any other remedies or sanctions authorized by law that are available to address these and other violations. This NOV and AO do not resolve Krevet's liability for past violations of the Act or for any violations that continue from the date of this NOV and AO up to the date of compliance.

45. Neither EPA nor the United States, by the issuance of this NOV/AO/RR, assumes any liability for any acts or omissions by Krevet or Krevet's employees, agents, contractors, or consultants engaged to carry out any action or activity pursuant to this NOV/AO/RR, nor shall EPA or the United States be held as a party to any contract entered into by Krevet or Krevet's employees, agents, contractors, or consultants engaged to carry out the requirements of this NOV/AO/RR.

#### **EFFECTIVE DATE AND APPLICABILITY**

46. This NOV/AO/RR shall take effect within immediately. The AO shall apply to Krevet, its officers, agents, servants, employees, successors, and assigns, and to all persons, firms, and corporations acting under, through, or for Krevet. This action is not subject to Office of Management and Budget review under the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

47. If Krevet has any questions regarding this NOV/AO/RR please contact Len Wallace at (617) 918-1835, or have your legal counsel contact Catherine Smith, Senior Enforcement Counsel, at (617) 918-1777. Krevet may request an opportunity to confer with

## Appendix 1

### Method for Documenting that Incompatible Materials Have Been Properly Separated

Kreivit shall follow the following procedures in documenting that incompatible chemicals have been properly separated.

1. List the extremely hazardous chemicals at the Facility for which the incompatibility analysis was performed. This list shall include, but not be limited to, the chemicals described in paragraph 22 of the NOV/AO/RR. The list may be limited to chemicals for which MSDSs are required by OSHA.
2. Describe all the standard(s) that Kreivit is following to properly separate incompatible chemicals.<sup>2</sup>
3. Develop a floor plan that indicates where each chemical is located. The floor plan should indicate how many feet are between each type of chemical and whether there is any secondary containment or barrier that separates the chemicals.
4. For any chemical that is located within 25 feet of another chemical without a physical barrier between the two chemicals (hereinafter referred to "co-located chemicals"), use the Chemical Reactivity Worksheet, which is available to the public at [www.epa.gov/emergencies/tools/htm#crw](http://www.epa.gov/emergencies/tools/htm#crw), to run an incompatibility analysis for those co-located chemicals. Each chemical should be compared to each other co-located chemical. Submit these Chemical Reactivity Worksheets to EPA.
5. If the Chemical Reactivity Worksheet indicates that two co-located chemicals are incompatible, but Kreivit believes that the co-location of such chemicals does not present a risk, Kreivit shall describe why it does not believe the co-located chemicals present a risk.
6. When considering a chemical's compatibility with substances around it, note that some chemicals can have dangerous reactions with otherwise benign substances, such as water.

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<sup>2</sup> For example, the MSDS for a chemical may indicate what substances are incompatible with the chemical; NFPA 30 recommends that incompatible chemicals be located a minimum of 25 feet from each other; the Resource Conservation and Recovery Act requires separation of incompatibles by physical barrier, such as a dike or berm; and AIChE *Guidelines for Safe Warehousing of Chemicals*, 2.6, recommends that incompatibles be separated by either (a) distance or an inert material (only for mildly incompatible materials); (b) fire resistant partitions; or (c) storage in separate buildings.