



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

EPA Region 5 Records Ctr.



347416

NOV 24 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

REPLY TO THE ATTENTION OF

SR-6J

AECOM
Alex Eddington
36133 Schoolcraft Road
Livonia, Michigan 48150

Re: Request for Information Pursuant to Section 104(e) of CERCLA for Behr Dayton Thermal Systems VOC Plume in Dayton, Ohio

Dear Mr. Eddington:

The U.S. Environmental Protection Agency (U.S. EPA) is investigating the Behr Dayton Thermal Systems VOC Plume Site ("the Site") in Dayton, Montgomery County, Ohio. This Site encompasses the areal extent of the undefined groundwater contamination plume originating from the Behr Dayton Thermal Products facility (the Behr Dayton facility) located at 1600 Webster Street, Dayton, Montgomery County, Ohio; from the Gem City Chemicals facility at 1200 Webster Street, Dayton, Montgomery County, Ohio; and from the Aramark Uniform Services facility at 1287 Air City Avenue, Dayton, Montgomery County, Ohio. U.S. EPA believes that you may have information that is relevant to the investigation of contamination at the Site. Enclosure 1 is a summary of the history of this Site and U.S. EPA's investigation.

U.S. EPA asks that you provide information and documents relating to the contamination of the Site. Please respond completely and truthfully to this Information Request and its questions in Enclosure 2 within 21 days of your receipt of this letter. Instructions for completion of this response are in Enclosure 3; definitions of terms used in this Information Request and its questions are in Enclosure 4.

You may consider some information that we request as confidential. If you wish to assert a privilege of business confidentiality, you must respond to the question and advise U.S. EPA that you request that the Agency treat the response as confidential business information. Instructions to assert a claim of business confidentiality are in Enclosure 5.

The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601-9679 (2007), commonly referred to as CERCLA or Superfund, gives U.S. EPA the authority to: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by sites, and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604(e)(2), U.S. EPA has authority to gather information and to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored or disposed of at a vessel or facility or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean up.

Enclosure 6 is a summary of this legal authority. Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA, as amended. Failure to respond and/or failure to justify the non-response can result in similar penalties under this Section. Further, Section 104(e)(5), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, 20 U.S.C. § 2461 note, authorizes the United States to seek penalties from a Federal Court of up to thirty-seven thousand five hundred dollars (\$37,500) for each day of continued noncompliance. U.S. EPA considers noncompliance to be not only failure to respond to the Information Request, but also failure to respond completely and truthfully to each question in the Information Request.

The provision of false, fictitious or fraudulent statements or misrepresentations may subject you or your firm to criminal penalties of up to twenty five thousand dollars (\$25,000) or up to five (5) years imprisonment, or both, under 18 U.S.C. § 1001.

U.S. EPA has the authority to use the information requested in an administrative, civil, or criminal action.

This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3549 (2008).

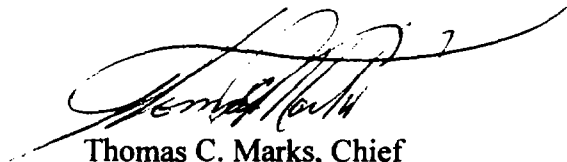
Return your response to U.S. EPA within 21 days of your receipt of this Information Request. Mail your response to:

Denise Ratliff, Enforcement Specialist
U.S. Environmental Protection Agency
Remedial Enforcement Support Section
77 W. Jackson SR-6J
Chicago, IL 60604

If you have questions about a legal matter, please contact Maria Gonzalez, Associate Regional Counsel, at (312) 886-6630. Address technical questions to Stacey Coburn, Remedial Project Manager, at (312) 886-2263. Address all other questions to Denise Ratliff at (312) 886-9481.

We appreciate your effort to respond fully and promptly to this information request.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas C. Marks", is written over a horizontal line.

Thomas C. Marks, Chief
Remedial Enforcement Services Section

Enclosure:

1. Site History Elements
2. Questions
3. Instructions
4. Definitions
5. Confidential Business Information
6. Description of Legal Authority
7. Small Business Enclosure

Enclosure 1

SITE HISTORY ELEMENTS

This Site is located in the vicinity of 1600 Webster Street in Dayton, Montgomery County, Ohio and nearby areas where hazardous substances, pollutants or contaminants will, have, or may have come to be located from current or former operations at 1600 Webster Street, Dayton, Montgomery County, Ohio; 1200 Webster Street, Dayton, Montgomery County, Ohio; and 1287 Air City Avenue, Dayton, Montgomery County, Ohio. The area near the Site is commercially and residentially developed and includes homes, schools, and commercial buildings. There are schools nearby, including Van Cleve Elementary School and Kiser Elementary School.

On September 28, 2006, groundwater sampling results at the Site showed trichloroethene (TCE) concentrations as high as 3,900 parts per billion (ppb). The Maximum Contaminant Level (MCL) for TCE is 5 ppb. On October 16, 2006, Ohio EPA installed a total of seven soil gas probes at the Site to evaluate potential risk posed by vapor intrusion from a VOC groundwater plume. These samples yielded concentrations as high as 16,000 ppb. Based on Agency for Toxic Substances and Disease Registry (ATSDR) and Ohio Department of Health (ODH) recommendations, U.S. EPA conducted indoor air sampling at eight locations in November 2006 and obtained indoor air concentrations of TCE as high as 260 ppb. The ATSDR residential TCE indoor air screening level for TCE is 0.4 parts per billion by volume (ppbv).

A removal action began in December 2006. This action included additional sampling to identify homes with potential vapor intrusion of TCE, sampling indoor air in the homes to measure TCE concentrations, and installation of vapor abatement systems in homes where monitoring indicated such action was appropriate. This removal action is ongoing.

This Site has been proposed to the National Priorities List (NPL). Special Notice Letters were sent to four Potentially Responsible Parties (PRPs) in November 2007. Negotiations toward an agreement for PRPs to conduct a Remedial Investigation / Feasibility Study were concluded without settlement.

This information request is being sent to collect information about the Site to prepare to conduct a Remedial Investigation / Feasibility Study.

Enclosure 2

QUESTIONS

1. Identify all persons consulted in the preparation of the answers to these Information Requests.
2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these Requests, and provide copies of all such documents.
3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any Information Request or who may be able to provide additional responsive documents, identify such persons.
4. Provide information about the Site, including but not limited to the following:
 - a) Location of underground utilities (telephone, electrical, sewer, water main, etc.);
 - b) Ground water wells, including drilling logs; and
 - c) All maps and drawings of the Site in your possession.
5. Provide all reports, information, or data related to soil, water (ground and surface), or air quality and geology/hydrogeology at and about the Site. Provide copies of all documents containing such data and information, including both past and current aerial photographs as well as documents containing analysis or interpretation of such data, including but not limited to the following:
 - a) Any analytical data packages for groundwater samples collected from groundwater wells, not included in the items above, and all well logs and field notes for these wells.
 - b) Any soil sampling results obtained at the Site or nearby areas, including analytical data packages and field logs and notes taken during sampling.
 - c) Complete data sets for indoor air, sub-slab, and ambient sampling done as part of the removal action, or any other investigation or remediation, including dates and locations of sampling and analytical data packages.
 - d) Results of any ground water or soil samples taken to assess either the condition of the property being remediated or the operation of these remedial systems, including analytical data packages and field notes.
6. Are you planning to perform any investigations or remediation of the soil, water (ground or surface), geology, hydrology, or air quality on or about the Site, or have such activities already begun? If so, identify:
 - a) The nature and scope of these investigations or remediations;
 - b) The contractors or other persons that did / will undertake these investigations or remediations;

- c) The purpose of the investigations or remediations;
 - d) Dates when such investigations or remediations did / will take place and were / will be completed; and
 - e) Where on or about the Site such investigations or remediations did / will take place.
7. Please provide a copy of any Phase I environmental assessment(s) for the facility.

Enclosure 3

INSTRUCTIONS

1. Answer each of the questions in this Information Request separately.
2. Precede each answer with the number of the question to which it corresponds.
3. In answering each question, identify all persons and contributing sources of information.
4. Although the U.S. EPA seeks your cooperation in this investigation, CERCLA requires that you respond fully and truthfully to this Information Request. False, fictitious, or fraudulent statements or misrepresentations may subject you to civil or criminal penalties under federal law. Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes the U.S. EPA to pursue penalties for failure to comply with that Section, or for failure to respond adequately to requests for submissions of required information.
5. In answering each question, identify all persons and contributing sources of information.
6. You must supplement your response to U.S. EPA if, after submission of your response, additional information should later become known or available. Should you find at any time after the submission of your response that any portion of the submitted information is false or misrepresents the truth, you must notify U.S. EPA as soon as possible.
7. For any document submitted in response to a question, indicate the number of the question to which it responds.
8. You must respond to each question based upon all information and documents in your possession or control, or in the possession or control of your current or former employees, agents, contractors, or attorneys. Information must be furnished regardless of whether or not it is based on your personal knowledge, and regardless of source.
9. Your response must be accompanied by the following statement, or one that is substantially equivalent:

I certify under a penalty of law that this document and all Enclosures were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are

significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

The individual who prepared the response or the responsible corporate official acting on behalf of the corporation must sign and date the statement, affidavit, or certification. Include the corporate official's full title.

10. If any of the requested documents have been transferred to others or have otherwise been disposed of, identify each document, the person to whom it was transferred, describe the circumstances surrounding the transfer or disposition, and state the date of the transfer or disposition.
11. All requested information must be provided notwithstanding its possible characterization as confidential information or trade secrets. If desired, you may assert a business confidentiality claim by means of the procedures described in Enclosure 5.

Enclosure 4

DEFINITIONS

1. As used in this letter, words in the singular also include the plural and words in the masculine gender also include the feminine and vice versa.
2. The term *person* as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. *The Site* referenced in these documents shall mean the Behr Dayton Thermal Systems VOC Plume Site located in Dayton, Ohio.
4. The term *Respondent* as used herein includes AECOM or any of its predecessors in interest, subsidiaries, divisions, or associated entities.
5. The term *you* or *AECOM* shall mean the addressee of this Information Request, the addressee's officers, managers, employees, contractors, trustees, successors, assigns, and agents, and any predecessor or successor corporations or companies.
6. The term *hazardous substance* shall have the same definition as that contained in Section 101(14) of CERCLA, including any mixtures of such hazardous substances with any other substances, including petroleum products.
7. The term, *pollutant* or *contaminant*, shall have the same definition as that contained in Section 101(33) of CERCLA, and includes any mixtures of such pollutants and contaminants with any other substances.
8. The term *release* shall have the same definition as that contained in Section 101(22) of CERCLA, and means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant.
9. The term *identify* means, with respect to a natural person, to set forth the person's full name, present or last known business address and business telephone number, present or last known home address and home telephone number, and present or last known job title, position or business.
10. The term *identify* means, with respect to a corporation, partnership, businesses trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

11. The term *identify* means, with respect to a document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance or the subject matter.
12. All terms not defined herein will have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 C.F.R. Part 300, or 40 C.F.R. Parts 260-280, in which case, the statutory or regulatory definitions will apply.

Enclosure 5

CONFIDENTIAL BUSINESS INFORMATION

You may consider some of the information confidential that the U.S. Environmental Protection Agency (U.S. EPA or Agency) is requesting. You cannot withhold information or records upon that basis. The Regulations at 40 C.F.R. Part 2, subpart B require that the U.S. EPA affords you the opportunity to substantiate your claim of confidentiality before the Agency makes a final determination on the confidentiality of the information.

You may assert a business confidentiality claim covering part or all of the information requested, in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the U.S. EPA only to the extent and only by means of the procedures set forth in 40 C.F.R. Part 2, Subpart B. (See 41 Fed. Reg. 36,902 (September 1, 1976); 50 Fed. Reg. 51,654 (December 18, 1985).) If no such claim accompanies the information when the U.S. EPA receives it, the information may be made available to the public by the Agency without further notice to you. Please read carefully these cited regulations, together with the standards set forth in Section 104(e)(7) of Comprehensive Environmental Response Compensation Liability Act (CERCLA), because, as stated in Section 104(e)(7) (ii), certain categories of information are not properly the subject of a claim of confidential business information.

If you wish the U.S. EPA to treat the information or record as "confidential", you must advise the U.S. EPA of that fact by following the procedures described below, including the requirement for supporting your claim of confidentiality. To assert a claim of confidentiality, you must specify which portions of the information or documents you consider confidential. Please identify the information or document that you consider confidential by page, paragraph, and sentence. You must make a separate assertion of confidentiality for each response and each document that you consider confidential. Submit the portion of the response that you consider confidential in a separate, sealed envelope. Mark the envelope "confidential," and identify the number of the question to which it is the response.

For each assertion of confidentiality, identify:

1. The period of time for which you request that the Agency consider the information confidential, e.g., until a specific date or until the occurrence of a specific event;
2. The measures that you have taken to guard against disclosure of the information to others;
3. The extent to which the information has already been disclosed to others and the precautions that you have taken to ensure that no further disclosure occurs;
4. Whether the U.S. EPA or other federal agency has made a pertinent determination

on the confidentiality of the information or document. If an agency has made such a determination, enclose a copy of that determination;

5. Whether disclosure of the information or document would be likely to result in substantial harmful effects to your competitive position. If you believe such harm would result from any disclosure, explain the nature of the harmful effects, why the harm should be viewed as substantial, and the causal relationship between disclosure and the harmful effect. Include a description of how a competitor would use the information;
6. Whether you assert that the information is voluntarily submitted as defined by 40 C.F.R. § 2.201(i). If you make this assertion, explain how the disclosure would tend to lessen the ability of the U.S. EPA to obtain similar information in the future;
7. Any other information that you deem relevant to a determination of confidentiality.

Please note that pursuant to 40 C.F.R. § 2.208(e), the burden of substantiating confidentiality rests with you. The U.S. EPA will give little or no weight to conclusory allegations. If you believe that facts and documents necessary to substantiate confidentiality are themselves confidential, please identify them as such so that the U.S. EPA may maintain their confidentiality pursuant to 40 C.F.R. § 2.205(c). If you do not identify this information and documents as "confidential," your comments will be available to the public without further notice to you.

Enclosure 6

DESCRIPTION OF LEGAL AUTHORITY

The Federal Superfund law (the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.* (commonly referred to as CERCLA or Superfund)) gives U.S. EPA the authority to, among other things: 1) assess contaminated sites, 2) determine the threats to human health and the environment posed by each site, and 3) clean up those sites.

Under Section 104(e)(2) of CERCLA, 42 U.S.C. § 9604 (e)(2), U.S. EPA has broad information gathering authority which allows U.S. EPA to require persons to furnish information or documents relating to:

- A. The identification, nature, and quantity of materials which have been or are generated, treated, stored, or disposed of at a vessel or facility, or transported to a vessel or facility;
- B. The nature or extent of a release or threatened release of a hazardous substance or pollutant or contaminant at/or from a vessel or facility;
- C. The ability to pay the costs of the clean-up.

Compliance with this Information Request is mandatory. Failure to respond fully and truthfully to each question within this Information Request and within the prescribed time frame can result in an enforcement action by U.S. EPA pursuant to Section 104(e)(5) of CERCLA. This Section also authorizes an enforcement action with similar penalties if the recipient of the Request does not respond and does not justify the failure to respond. Other statutory provisions (18 U.S.C. § 1001) authorize separate penalties if the responses contain false, fictitious or fraudulent statements. The U.S. EPA has the authority to use the information requested in this Information Request in an administrative, civil, or criminal action.

Enclosure 7



INFORMATION SHEET

U. S. EPA Small Business Resources

If you own a small business, the United States Environmental Protection Agency (EPA) offers a variety of compliance assistance resources such as workshops, training sessions, hotlines, websites, and guides to assist you in complying with federal and state environmental laws. These resources can help you understand your environmental obligations, improve compliance, and find cost-effective ways to comply through the use of pollution prevention and other innovative technologies.

Compliance Assistance Centers

(www.assistancecenters.net)

In partnership with industry, universities, and other federal and state agencies, EPA has established Compliance Assistance Centers that provide information targeted to industries with many small businesses.

Agriculture

(www.epa.gov/agriculture or 1-888-663-2155)

Automotive Recycling Industry

(www.ecarcenter.org)

Automotive Service and Repair

(www.ccar-greenlink.org or 1-888-GRN-LINK)

Chemical Industry

(www.chemalliance.org)

Construction Industry

(www.cicacenter.org or 1-734-995-4911)

Education

(www.campuserc.org)

Healthcare Industry

(www.hercenter.org or 1-734-995-4911)

Metal Finishing

(www.nmfrc.org or 1-734-995-4911)

Paints and Coatings

(www.paintcenter.org or 1-734-995-4911)

Printed Wiring Board Manufacturing

(www.pwbrc.org or 1-734-995-4911)

Printing

(www.pneac.org or 1-888-USPNEAC)

Transportation Industry

(www.transource.org)

Tribal Governments and Indian Country

(www.epa.gov/tribal/compliance or 202-564-2516)

US Border Environmental Issues

(www.bordercenter.org or 1-734-995-4911)

The Centers also provide State Resource Locators (www.envcap.org/statetools/index.cfm) for a wide range of topics to help you find important environmental compliance information specific to your state.

EPA Websites

EPA has several Internet sites that provide useful compliance assistance information and materials for small businesses. If you don't have access to the Internet at your business, many public libraries provide access to the Internet at minimal or no cost.

EPA's Home Page

www.epa.gov

Small Business Gateway

www.epa.gov/smallbusiness

Compliance Assistance Home Page

www.epa.gov/compliance/assistance

Office of Enforcement and Compliance Assurance

www.epa.gov/compliance

Voluntary Partnership Programs

www.epa.gov/partners



U.S. EPA SMALL BUSINESS RESOURCES

Hotlines, Helplines & Clearinghouses

(www.epa.gov/epahome/hotline.htm)

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. A few examples are listed below:

Clean Air Technology Center

(www.epa.gov/ttn/catc or 1-919-541-0800)

Emergency Planning and Community Right-To-Know Act

(www.epa.gov/superfund/resources/infocenter/epcra.htm or 1-800-424-9346)

EPA's Small Business Ombudsman Hotline provides regulatory and technical assistance information. (www.epa.gov/sbo or 1-800-368-5888)

The National Environmental Compliance Assistance

Clearinghouse provides quick access to compliance assistance tools, contacts, and planned activities from the U.S. EPA, states, and other compliance assistance providers (www.epa.gov/clearinghouse)

National Response Center to report oil and hazardous substance spills.

(www.nrc.uscg.mil or 1-800-424-8802)

Pollution Prevention Information Clearinghouse

(www.epa.gov/opptintr/ppic or 1-202-566-0799)

Safe Drinking Water Hotline

(www.epa.gov/safewater/hotline/index.html or 1-800-426-4791)

Stratospheric Ozone Refrigerants Information

(www.epa.gov/ozone or 1-800-296-1996)

Toxics Assistance Information Service also includes asbestos inquiries.

(1-202-554-1404)

Wetlands Helpline

(www.epa.gov/owow/wetlands/wetline.html or 1-800-832-7828)

State Agencies

Many state agencies have established compliance assistance programs that provide on-site and other types of assistance. Contact your local state environmental agency for more information or the following two resources:

EPA's Small Business Ombudsman

(www.epa.gov/sbo or 1-800-368-5888)

Small Business Environmental Homepage

(www.smallbiz-enviroweb.org or 1-724-452-4722)

Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated,

businesses may be eligible for penalty waivers or reductions. EPA has two policies that potentially apply to small businesses:

The Small Business Compliance Policy

(www.epa.gov/compliance/incentives/smallbusiness)

Audit Policy

(www.epa.gov/compliance/incentives/auditing)

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established an SBA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System (NAICS) designation, number of employees, or annual receipts, defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit comments to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

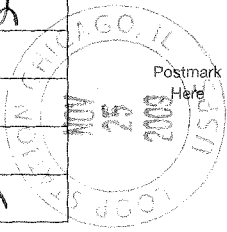
U.S. Postal Service
CERTIFIED MAIL RECEIPT

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DMR SP65 Kehr 104e

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Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
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AECOM
Street, Apt. No., or PO Box No. Alex Eddington
City, State, ZIP+4 36133 Schoolcraft Road
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