



## Division of Materials and Waste Management Response to Comments

Re: Clean Harbors Recycling Services  
of Ohio LLC  
Permit – Intermediate  
Public Response  
RCRA C – Hazardous Waste  
Licking County  
OHD980587364

**Project: Clean Harbors Recycling Services of Ohio, LLC  
Renewal Permit  
Ohio EPA ID #: OHD 980 587 364**

### **Agency Contacts for this Project**

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Ohio EPA held a comment period beginning July 30, 2015, regarding the draft issuance of a permit renewal. This document summarizes the comments and questions received during the associated comment period, which ended Sept. 21, 2015.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. For example, concerns about zoning issues are addressed at the local level. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format.

Comments from Clean Harbors Recycling Services of Ohio

**Comment 1:** **Clean Harbors Recycling Services of Ohio (Clean Harbors) believes that new risk-based standards first need to be developed for incorporation into the revisions to the corrective action program, and that the anticipated elements of the Permit Modification and draft preliminary outlines for the updated Groundwater Monitoring Plan and the Operation and Maintenance Plan should be presented to Ohio EPA and discussed with Ohio EPA before making a submission, in order to avoid a counterproductive series of deficiency notices and revised submissions.**

**Response 1:** Ohio EPA is open to discussions about the draft revisions to help minimize deficiency notices and revised submissions.

**Comment 2:** **Clean Harbors states Condition A.27(a)(vii) and Condition A.27(b) seem redundant and requests either the conditions be combined or clarified so redundant references are not confusing.**

**Response 2:** Condition A.27.(a)(vii) requires Clean Harbors to submit an updated post-closure corrective action cost estimate and an updated financial assurance mechanism for post-closure and site-wide corrective action as a result of the required Class 3 modification to integrate the ground water monitoring requirements for the underground storage tank (UST) post-closure care and site-wide corrective action at the facility. The timing of the requirement is within 120 days (see Response 3) of Ohio EPA approval of the risk assessment report.

Condition A.27.(b) requires Clean Harbors to submit an updated closure and post-closure cost estimate, an updated financial assurance mechanism for closure and post-closure care and updated third-party liability documentation within 60 days after permit journalization. The purpose of this requirement is to provide updated financial assurance documentation to the permit that may have become outdated during the renewal process. For instance, Clean Harbors submitted a new 'Ohio Certificate of Insurance for Closure or Post-Closure Care' on Sept. 6, 2015. The certificate increased the amount of financial assurance based on an inflation adjustment to the closure and post-closure care cost estimates. The permit renewal application has not yet been updated to reflect these changes. Sixty days after permit

journalization, Clean Harbors must submit a modification updating these documents in the permit renewal application.

Condition A.27.(a)(vii) and A.27.(b) are not redundant and are necessary to ensure adequate financial assurance documentation is located in the permit renewal application. Therefore, no changes were made.

**Comment 3:** **Clean Harbors requests to modify Condition A.27(a) to allow the Permittee 120 days to submit the Class 3 permit modification after Ohio EPA approval of the risk assessment report instead of 60 days.**

**Response 3:** Ohio EPA concurs with the request and will allow the Permittee to submit the Class 3 permit modification within 120 days after approval of the risk assessment report. Condition A.27(a) was changed to reflect this.

**Comment 4:** **Clean Harbors states Condition A.27(a)(ii), defining the extent of contamination, is viewed as a general requirement of the ongoing monitoring program.**

**Response 4:** This statement is not relevant to the renewal of the permit as it is being addressed through other submittals and responses currently under review by Ohio EPA. Responses will be handled under separate correspondence with Clean Harbors.

**Comment 5:** **Clean Harbors requests clarification on the wording of Condition A.27(a)(iii). Should the condition read “program must establish groundwater containment standards” or “groundwater contaminant standards.”**

**Response 5:** Condition A.27(a)(iii) is correct. It should read “program must establish groundwater containment standards.” Therefore, no changes were made.

**Comment 6:** **Clean Harbors requests the statements made on Pages 47-48 of the Draft Permit be deleted. Clean Harbors does not agree with the assertions and opinions in their entirety. The inclusion of these introductory comments increases the risk that Clean Harbors would have to appeal the issuance of a final permit because of the de facto acceptance of these comments, and in any event, these comments are not “conditions” of the proposed permit, as the term “condition” is commonly understood.**

**Response 6:** The statements made on these pages are meant to summarize the history of events that have occurred at the site. Ohio EPA recognizes that the statements made on these pages are not enforceable conditions of the permit. Ohio EPA still agrees with the statements made on these pages and that they accurately reflect the site history.

Recognizing the statements made on these pages are not enforceable conditions of the permit, Ohio EPA has removed the following two sentences from Section E of the final permit:

- Based on a review of recent semi-annual corrective action reports, Ohio EPA has determined that the Permittee's remedial measures are insufficient to prevent the migration of contaminants to deeper water bearing zones and off-site.
- Ohio EPA's evaluation of these reports revealed that (1) contamination continues to migrate off-site as evidenced by statistically significant increases in levels of hazardous constituents in wells near the downgradient property boundary, (2) the existing monitoring system is not adequate to evaluate the vertical and horizontal extent of contamination, and (3) the changes to the remedial and monitoring systems proposed by the Permittee are not adequate to address these issues, and investigation of an expanded remediation system or an alternate remedial method is necessary.

**Comment 7:** **Condition E.9(a)(iv)(a) references the incorrect date of the most recent Groundwater Monitoring Plan (GWMP) submitted and approved as part of Appendix 5-1 of the renewal application. Condition E.9 of the proposed permit (and elsewhere in the permit) employs the phrase "Ohio EPA will authorize..." This phrase should be revised to read "The Director will authorize..."**

**Response 7:** Ohio EPA concurs that the incorrect date is referenced for the GWMP and will remove the date reference. Condition E.9(a)(iv)(a) now reads "...and the currently effective Ground Water Monitoring Plan in Appendix 5-1."

Ohio EPA has considered the comment regarding changing the phrase from "Ohio EPA will authorize..." to "The Director will authorize..." and has determined that, to stay consistent

with the previous permit and other permits issued around the State of Ohio, it will remain "Ohio EPA will authorize...." Therefore, no changes were made.

**Comment 8:** **Condition E.9 (second paragraph): Clean Harbors did not understand the need to continue to monitor for semi-volatile organic compounds (SVOCs) after the Class 3 permit modification of Permit Condition A.27, as specified in Permit Condition E.9(a)(iv)(b) of the revised permit.**

**Response 8:** The requirement of Permit Condition E.9(a)(iv)(b) to continue to monitor SVOCs is consistent with the requirement of Permit Condition A.27(a)(i), which will require addition of all hazardous constituents detected to Permit Condition J.2(a) during the Class 3 permit modification. However, Permit Condition E.9(a)(iv)(b) is a separate requirement, independent of the approval of the risk assessment report specified in Permit Condition A.27.

The detected presence of the SVOC bis(2-Ethylhexyl)phthalate in wells H-9S, H-10S and others, requires that this condition remain in the permit until the Class 3 permit modification completes the process of incorporating all detected hazardous constituents into the permit.

Once all detected hazardous constituents have been added to Permit Condition J.2(a) through the Class 3 permit modification, pursuant to Permit Condition A.27, the redundant requirements in E.9(a)(iv)(b) will have been addressed and will no longer be needed.

**Comment 9:** **Module F - Post Closure and Module J - Ground Water Monitoring: Clean Harbors asserted that Module F and Module J may be removed or substantially revised as a result of completing the Class 3 Permit Modification Request pursuant to Permit Condition A.27 to remove "inconsistencies/redundancies."**

**Response 9:** The Class 3 permit modification, pursuant to Permit Condition A.27, is intended to integrate the post-closure care unit, corrective action monitoring and site-wide corrective action monitoring programs. Ohio EPA agrees that modification of the Part B Permit modules will be needed to eliminate redundancies and to reflect changes resulting from the Class 3 permit modification Request.

**Comment 10: Condition J.7 - Statistical Procedure:**

- a. **Clean Harbors states an assumption that Permit Condition J.7 will be refined as a result of the integrated ground water monitoring program.**
- b. **Clean Harbors asserts that the reference to Permit Condition J.3(a) in Permit Condition J.7 is incorrect, and should refer to Permit Condition J.3(b).**

**Response 10:**

- a. Ohio EPA agrees that the statistical procedures, pursuant to Permit Condition J.7, may need to be updated in the future to reflect changes necessary as a result of the integration of ground water monitoring programs pursuant to Permit Condition A.27.
- b. Ohio EPA has determined that the reference in Permit Condition J.7 to Permit Condition J.3(a) is consistent with the corresponding requirements of the previous Part B Permit, and remains in the final permit, as discussed below.

The previous version of the permit (i.e., Permit Condition G.7), stated that the Permittee must use the statistical procedure in Permit Conditions G.7 (now J.7) to evaluate constituents “in each well,” without a reference to the abbreviated list of wells in Permit Condition G.3(b) (now J.3(b)).

Consistent with the previous intent of Permit Condition G.7, the intent of Permit Condition J.7 is to employ consistent statistical procedures at each well monitored, not just a subset of wells.

Permit Condition J.3(a) requires a “sufficient number” of wells, but does not specify individual wells. Therefore, it is consistent with the purpose of the previous Permit Condition G.7, and no changes were made.

**Comment 11: Condition J.11 - Corrective Action:**

- a. **Clean Harbors asserts that the requirement to conduct annual sampling for the constituents listed in the Appendix to OAC Rule 3745-54-98 has**

**already been conducted and would not be a part of the integrated monitoring program.**

- b. Clean Harbors expressed disagreement with the term “UST unit” with respect to the implied origin of the hazardous constituents associated with the release of hazardous constituents into the UST cavity.**
- c. Clean Harbors identified their view of Permit Condition J.11 “as a section requiring resolution in the Permit Modification required by Permit Condition A.27.”**

**Response 11:**

- a. Ohio EPA agrees that the requirement for annual appendix sampling in Permit Condition J.11(c)(viii) has been completed and is no longer necessary as an ongoing requirement. Therefore, Ohio EPA removed this condition from the final permit.
- b. The term “UST unit” has historically been used as a descriptive term to identify the relative geographic location of the release of hazardous constituents relative to the location of the historical UST cavity in previous iterations of the Part B Permit and Post-Closure Plan. The term has not been used, and is not intended, to attribute the provenance of any hazardous constituent to the UST itself. Therefore, no change is required.
- c. Ohio EPA concurs that the corrective action section in Permit Condition J.11 will require modification in the future to reflect changes to the ground water monitoring program pursuant to the Class 3 permit modification of Permit Condition A.27.

**End of Response to Comments**