



**Division of Environmental Response and  
Revitalization and Division of Air Pollution Control  
Response to Comments**

**Project: Heritage Thermal Services, Inc., Renewal Permit**  
**Ohio EPA ID #: OHD980613541**  
**DAPC Facility ID: 0215020233**

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Ohio EPA held a comment period beginning June 29, 2017, regarding the draft issuance of a hazardous waste permit renewal. The Division of Air Pollution Control also issued a draft air permit concurrently. This document summarizes the comments and questions received during the associated comment period, which ended August 18, 2017.

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.

To help you review this document, the questions are grouped by the organization or person with the question or comment and organized in a consistent format.

**From: Center for Health, Environmental & Justice**

**Comment 1: For the past three years running, for the 12 consecutive quarters from October 2014 to today, Heritage Thermal Services has been and continues to be a High Priority Violator of the Clean Air Act due to the release of excessive amounts of hazardous air pollutants and hydrocarbons. That's 100% of the time. This is an increase over the three (3) year period from 2010 to 2012 when Heritage Thermal Services was a High Priority Violator 67% of the time. For the nine (9) year period**

**from 2004 to 2012, Heritage Thermal Services was in violation/non-compliance 89% of the time...These statistics are based on data available on the U.S. Environmental Protection Agency (EPA) Enforcement and Compliance History On-Line (ECHO) website available at <https://echo.epa.gov/detailed-facility-report?fid=110027242320>.**

**Response 1:** Once U.S. EPA sends a Finding of Violation (FOV) or Notice of Violation (NOV), this information is entered into their ECHO database. The violation stays in the ECHO under the facility's name until U.S. EPA resolves the violation. The resolution may be in the form of a Consent Decree with penalty and/or other requirements to ensure compliance (injunctive relief), additional FOV/NOVs, litigation, or no further action may be necessary. Heritage Thermal Services, Inc. (HTS) is listed as a High Priority because it is a Title V Facility and is subject to federal rules (40 CFR Part 63). HTS being listed as a High Priority Violator indicates that the enforcement case is still being resolved; it does not necessarily mean that there are ongoing violations.

**Comment 2:** **For the four (4) year period from November 2010 to December 2014, the U.S. EPA issued a Finding of Violation to Heritage Thermal Services under Section 113(a)(3) of the Clean Air Act. The EPA concluded that Heritage Thermal Services was “violating National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors” including its Title V permit at its East Liverpool, Ohio facility. Over 101 specific violations are listed in this document including some that were violated as many as 39 times.**

**Response 2:** The FOV issued by the U.S. EPA identified operating parameter limits (OPLs) that were exceeded. When an OPL is exceeded, an automatic waste feed cut-off (WFCO) occurs, waste is not allowed to be fed until the OPL returns to acceptable levels. An OPL exceedance that results in a WFCO is not necessarily a violation of an emission limit. The violations noted in this comment resulted in an enforcement action by USEPA that has not yet been completely resolved. U.S. EPA and HTS are currently in settlement negotiations. Any settlement agreement would likely be in the form of an Administrative Consent Order and would become public once it is finalized. If no agreement can be reached through negotiations then the matter would be resolved in court. It is anticipated that a settlement agreement will be reached between U.S. EPA and HTS

that will include requirements that are in addition to what is currently required under HTS's permit and applicable regulations.

**Comment 3:** Heritage Thermal Services has been cited repeatedly by the Occupational Safety and Health Administration (OSHA) for violating its rules and regulations.

- a) Explosion December 17, 2011
- b) Explosion due to chemical interactions in July 2006 and June 2007
- c) June 2012 complaint: Eleven (11) serious violations and four (4) other than serious violations
- d) August 2012 complaint: serious violations and 1 willful violation. Willful violations are the most severe type of violation OSHA can cite.

**Response 3:** Ohio EPA is responsible for the interpretation and enforcement of environmental rules and regulations and the effect of pollutants on human health and the environment. Worker exposure and safety hazardous are addressed by the Occupational Safety and Health Administration (OSHA).

**Comment 4:** The U.S. Environmental Protection Agency (USEPA) Region 5 issued a Finding of Violation (FOV) to Heritage Thermal Services (HTS) under Section 113(a)(3) of the Clean Air Act. Among the violations cited are:

- a) Routine Clinker Falls (increase pressure in SCC) (39 events)
- b) Energetic Ash Pressurization (8 events)
- c) Operator Error (numerous)
- d) THC exceedances (195 events)
- e) Maximum flue gas flowrate was exceeded (4 events)

- f) Minimum kiln temperature (5 events)**
- g) Minimum SCC temperature (13 events)**
- h) Other combustion requirements (96 events)**
- i) Minimum ECIS pressure (6 events)**
- j) Minimum carbon feed rate (2 events)**
- k) Minimum scrubber ring jet blowdown (4 events)**
- l) Minimum pressure drop across scrubber (5 events)**
- m) Minimum scrubber tank level (1 event)**
- n) Minimum pH (1 event)**
- o) Duct gases to APC equipment (2 events)**
- p) Pressure of SCC shrouds (continuous since 11 Sep 2013)**

**Response 4:**

The above list includes three types of exceedances: (1) an OPL exceedance – these precipitate a WFCO. An OPL exceedance does not automatically result in an emission exceedance. A WFCO occurs because compliance with the emission limitations cannot be assured, so the incinerator feed mechanisms are shut down until all OPLs return to acceptable parameters; (2) a malfunction exceedance – these occur due to an unexpected/uncommon event. All malfunctions are reported as such and are investigated. If the malfunction event potentially caused harm to human health or the environment, then further action may be taken by Ohio EPA; (3) operator error exceedance – if the operator error caused an OPL exceedance, a WFCO would occur and an emission exceedance is not likely to occur. If the operator error caused a release of pollutants to the environment, HTS would most likely receive an NOV. U.S. EPA and HTS are currently negotiating a resolution to these violations.



**From: Fair Shake Environmental Legal Services**

**Comment 5:**           **The Director should deny the applications because the draft permits are not adequate to protect human health and the environment.**

**Response 5:**       The draft Title V and Hazardous Waste Permits contain all the rules and regulations that apply to HTS and the activities that occur at HTS. The rules and regulations are meant to be protective of human health and the environment.

**Comment 6:**       **The applicant has a history of past and continuing violations of its RCRA permit and its Title V Air Permit that indicate an inability or lack of intention to comply with the applicable regulations.**

- a)     **The incinerator has a history of non-compliance with its Operating Parameter Limits**
- b)     **At the very least, the Title V Permit should require continuous emissions monitoring for metals**
- c)     **The Title V Air Permit should not be renewed because HTS has shown that it is unable or unwilling to comply with the Total Hydrocarbon Limit.**
- d)     **Heritage has been unable to comply with their short-term permit limitations for nitrogen oxides and sulfur dioxides.**
- e)     **The Title V permit impermissibly relaxes permit limits for pollutants for which HTS has had a history of violations.**

**Response 6:**       As stated above, when an OPL is exceeded, a WFCO occurs. This is not beneficial to HTS because they are not feeding waste until the OPL parameters return to acceptable levels. An OPL exceedance does not necessarily indicate an exceedance of an emission limitation.

Continuous emissions monitoring (CEM) for metals is not specifically required by the federal Hazardous Waste Combustor

(HWC) maximum achievable control technology (MACT) rule; however, the use of metals CEMs is one alternative compliance option in the federal rule that allows a facility to demonstrate ongoing compliance with the metals emission limits on a continuous basis. The rule also allows HTS to track metals feed rates into the incinerator, and this is the compliance option that HTS has chosen to comply with the federal rule. The Comprehensive Performance Test (CPT) at HTS, which takes place every five (5) years, sets the allowable metals feed rates that the incinerator must meet on an ongoing basis. Note that U.S. EPA, per authority in the HWC MACT rule (40 CFR 63.1209(g)(2)), has required another commercial hazardous waste incineration facility owned and operated by Veolia and located in Sauget, IL, to install and operate metal CEMs on three (3) separate incinerators for a temporary period to establish a correlation between the metals emissions and feed rates to prove that the OPLs are sufficiently stringent to assure compliance with the HWC MACT emission limits. U.S. EPA also required HTS to perform supplemental feed stream analysis due to data that showed a wide range of variability of the waste streams received at that facility. (Response to Comments on EPA's Proposed Air Pollution Control Title V Permit to Operate No. V-IL-1716300103-2014-10 for Veolia ES Technical Solutions, L.L.C., Sauget, Illinois). Ohio EPA is not aware of any data that shows a similar situation at HTS that would warrant the use of metals CEMS.

The total hydrocarbon (THC) emissions from HTS are monitored by a CEM. Similar to the OPL exceedances, when a THC exceedance occurs, a WFCO occurs. HTS is not allowed to resume feeding waste to the incinerator until the THC emissions rate returns to within acceptable parameters, additionally, exceedances are required to be reported to Ohio EPA. If the frequency of these exceedances increases or the cause is repetitive, Ohio EPA investigates. Emissions released once the incinerator feed shuts down have been determined to be insignificant. At times, Ohio EPA issues NOVs for these to request improvement in order to prevent significant exceedances.

HTS was issued a series of NOVs for NO<sub>x</sub> and SO<sub>x</sub> short-term emission exceedances. When these exceedances were further evaluated, it was determined the compliance method being used was erroneous. Every emission unit that has a short-term emission limit, if tested for compliance, would undergo three one-hour sampling tests. The three one-hour samples would be averaged

together and compared to the hourly allowable emission rate. It is for this reason that 3-one-hour averages are used to determine compliance. Once the appropriate averaging period was applied, emissions exceedances were found to be minimal.

In the renewal process, Ohio EPA considers the application, inspection reports, HTS history of compliance with the present permit, and Ohio's hazardous waste laws. Ohio EPA has found that HTS has a history of compliance that demonstrates sufficient reliability, expertise, and competency to operate.

**Comment 7:**           **The facility is in an Environmental Justice Community and the permitting process, therefore, requires heightened public participation and scrutiny.**

**Response 7:**       As a recipient of federal funding, Ohio EPA is under a legal obligation to comply with Title VI of the Civil Rights Act. We have fully reviewed the guidance developed by U.S. EPA for states regarding environmental justice. Ohio EPA meets our legal obligations and implements federal guidance through both our technical review and our public involvement activities on permit applications. Ohio EPA's permits are written to protect human health in every area of Ohio regardless of whether the source is in an environmental justice community.

Because of increased interest in HTS, Ohio EPA held a public hearing to gather and address comments from the community to allow for increased public participation. Specific communication plans for permits in areas that are deemed potential environmental justice areas such as East Liverpool are developed.

**Comment 8:**           **Heritage's repeated citations by OSHA demonstrate a culture of noncompliance and disregard for applicable regulations.**

**Response 8:**       See Ohio EPA Response 3.

**From: Heritage Thermal Services, Inc.**

**Comment 9:**           **Page 23, Section 1 - Auxiliary is misspelled in the section header.**

**Response 9:**       The spelling of "Auxiliary" has been corrected.

**Comment 10:**        **Page 27, Section 2 - The value of 1.25 tpy listed in the Operations, Property, and Equipment Description for fugitive particulates is incorrect. The allowable amount for this unit is 3.29 tpy.**

**Response 10:**      The PTI for F001 includes 3.29 TPY of emissions; however, the emission rate should not be included in the description of the emissions unit. Therefore, the emission rate has been removed.

**Comment 11:**        **Page 29, Section 2.d)(3) - Monitoring and/or Recordkeeping Requirements requires the facility to maintain a record of the total number of days that control measures were implemented, to be updated quarterly. This information can be gathered from the daily inspections. The requirement is unnecessary.**

**Response 11:**      The permit allows HTS to reduce the frequency of inspections to weekly based on the results of the visible emission observations. Page 29, Section 2.d)(3) was established by a combined Ohio EPA/Ohio Industry technical subgroup of the Permit Advisory Group (PAG) in the late 1990's to address monitoring in Title V permits sufficient to satisfy the "gap filling" requirements of OAC Rule 3745-77-07(A)(3)(a)(ii). The development of this term by the PAG addressed U.S. EPA concerns at the time regarding the frequency of implementing control measures for fugitive dust sources. U.S. EPA agreed that the need for implementing control measures could be based upon inspections and weather conditions rather than a set frequency. The PAG agreed that quarterly summaries provided record keeping that more easily identified information concerning the operation of fugitive dust sources with respect to rain and/or snow days, or in response to complaint investigations. The PAG also provided Ohio EPA with more specific information about a facility's selected control measure, its effectiveness, and whether the selected monitoring frequency was appropriate for the particular fugitive dust source. The term and condition also allowed facilities to use the summary information to approximate the annual costs associated with the implementation of control measures. The record-keeping requirements were not viewed as onerous since the quarterly summaries were easily generated from the other records required. For the reasons listed, Ohio will retain this PAG/U.S. EPA negotiated term, as written, in HTS's permit.

**Comment 12:** **Page 35, Section 3.d)(2) - The requirement for the use of a log to record inspection findings and corrective actions is duplicative to maintaining the daily inspection. Furthermore, the findings and corrective actions can be ascertained by reviewing the daily inspection form.**

**Response 12:** This inspection is required to identify maintenance issues with the doors, looking for openings that are not expected. Whereas, the daily inspection is to ensure the operator is closing the doors when waste is being processed.

**Comment 13:** **Page 35, Section 3.d)(4) - The requirement to note the presence or absence of visible emissions in a log is not a useful requirement. The facility has rarely seen visible emissions from this unit, it is unreasonable to note this information in a log. More useful notation would be to note only when visible emissions are observed.**

**Response 13:** Since there is a visible emission limitation, Title V rules require that there be an associated compliance method specified in the permit to ensure ongoing compliance with the visible emission limitation. The log to check the presence or absence of visible emissions is a way to ensure HTS is monitoring the emissions unit.

**Comment 14:** **Page 44, Section 4 - Unit description and unit name refer to “charcoal” rather than carbon used in the ECIS. HTS refers to the material as “carbon”.**

**Response 14:** The term “charcoal” was changed to “carbon.”

**Comment 15:** **Page 53, Section 5.c)(11) - Operational Restrictions specifies that waste feeds should be suspended when the Emergency Diesel Generator is in operation. There should be an exemption for periods of preventative maintenance of the emergency generator.**

**Response 15:** The permit has been altered to state, “When the Emergency Diesel Generator (insignificant emissions unit B001) is in operation, providing emergency power to the incinerator or APC equipment, feeding waste materials into the incinerator shall be suspended.”



**Comment 16:** Page 55, Section 5.d)(3) - The Title V permit has always had language requiring HTS to develop and maintain a FSAP according to the requirements of 40 CFR 63.1209(c). This regulatory section states that the FSAP must be kept "in the operating plan". There is no regulatory requirement or need to put the contents of this plan into the permit. In general, the FSAP discusses how feed streams are analyzed to allow HTS to document compliance with the feed limits. The FSAP also contains current MACT OPLs. The plan is incorporated by reference into the permit and is a publicly available document. The permit requires that HTS provide the plan to Ohio EPA for the agency's review and approval, which HTS has done. This provides sufficient facility accountability and agency oversight. This approach mirrors that of other plans required by the permit such as the startup shutdown malfunction plan and the operation and maintenance plan. The permit requires HTS to develop both of these plans outlines the plans' content but does not include the text of these plans into the permit. This allows the plans to be reviewed and enforceable without creating an unnecessarily cumbersome permit document. Incorporating the FSAP into the terms of the Title V permit, by contrast, subjects the permit to potential interpretation and enforcement issues and adds unnecessary language to the permit. This action makes every operation decision HTS has determined as the best compliance method to become a permit condition. In addition, this action could also potentially trigger permit revisions if the plan should change (new OPLs set during CPT or new test methods), instead of simply further review and approval by Ohio EPA of any revised plan.

**Response 16:** Ohio EPA was notified by U.S. EPA that key elements of the Feed Stream Analysis Plan (FSAP) should be included in the Title V permit, similar to how the FSAPs are incorporated into the Title V permits for other commercial hazardous waste incinerators in the U.S. Currently, Ohio EPA believes that no other required plans, aside from the FSAP, must be included in the Title V permit.

**Comment 17:** Section 5.d)(3) - HTS is referenced throughout the FSAP. In addition, system specific terms are used as well. If HTS decides to change its system, this may trigger an unnecessary permit modification.

- Response 17:** The Ohio EPA is not adverse to processing permit modifications, when necessary.
- Comment 18:** **Section 5.d)(3) - FSAP contains outdated OPLs.**
- Response 18:** The most recent OPLs, as established by the most recent CPT, will be inserted.
- Comment 19:** **Page 80, Section 5.f)(3) - The Permit does not specify what type of permit modification needs to be completed to update the OPLs after a CPT. HTS had requested language to be added to reduce potential confusion and enforcement with respect to permit modifications.**
- Response 19:** The updates to OPLs in the permit will be handled through the Title V Minor Permit Modification (MPM) process. A Title V MPM is issued in two stages: Proposed to U.S. EPA, then Final. To initiate the process, HTS would submit the MPM Application through Air Services as a modification application that includes the redline/strikeout version of the permit in which the updated values would be specified. HTS would be subject to the updated values upon submittal of the application. Following receipt of application, Ohio EPA would process the Title V modification permit. Note that Ohio EPA routinely processes MPMs for other Title V facilities across the state in a timely manner to keep source's Title V permits up-to-date.
- Comment 20:** **Page 81, Appendix A - Recommend moving Appendix A to the end of the Permit and not in the middle of the Permit.**
- Response 20:** Appendix A has been moved to the end of the permit.
- Comment 21:** **Page 84, Section 6.b)(2) - Additional Terms and Conditions specifies that a logbook should be dedicated to the continuous THC monitoring system and kept onsite at all times. HTS captures operating information, including THC, in the facility operating record. This is an unnecessary requirement. In addition, there is no detail as to what should be contained in the log.**
- Response 21:** Ohio EPA agrees and has changed the permit. The requirement to keep a logbook has been removed from the permit.

**Comment 22:** Section b)(2)a. - The following comment is identical and applies to the following units: P003 - P005. Additional Terms and Conditions specifies that the door to these units shall be closed when waste is processed in this unit. This condition needs to reflect that doors must be closed when waste is being processed into containers or when waste is being unloaded directly to the incinerator. During normal unloading, the tankers are connected to vapor recovery and no waste is open to atmosphere. Ohio EPA agreed to this during their visit on May 10, 2017.

**Response 22:** Any requested changes to these permits must be applied for by HTS as a permit modification. This type of permit modification would be processed in a permit-to-install, prior to modifying the Title V Permit.

This comment refers to the terms found at the following locations: EU P003 [page 95, 7.b)(2)a.]; EU P004 [page 104, 8.b)(2)a.]; EU P005 [page 114, 9.b)(2)a.].

**Comment 23:** Page 16, Section B.1(b)(i) - Permit allows treatment of 88,000 tons of hazardous waste per year for each incinerator. As it currently reads, HTS must only process that exact amount

**Response 23:** Ohio EPA agrees and has changed the permit to state, "up to 88,000 tons."

**Comment 24:** Page 16, Section B.1(b)(ii) - Permit allows Inorganic waste treatment of 83,000 tons of hazardous waste per year. As it currently reads, HTS must only process that exact amount.

**Response 24:** Ohio EPA agrees and has changed the permit to state, "up to 83,000 tons."

**Comment 25:** Page 16, Section B.1(c) - Ohio EPA does not need to give permission to treat non-hazardous wastewater through the General Wastewater System. That system exists with permit approval to operate.

**Response 25:** Ohio EPA does not believe this condition limits HTS's permitted activities. This issue will be addressed further if/when the wastewater treatment system is constructed.

**Comment 26:** Page 16, B.1(d) - HTS is permitted for treatment in tanks, as well as shipping material to alternate treatment facilities. There does not need to be a permit condition saying we can blend waste and ship off-site. This is a product of Ohio EPA over regulating HTS' permitted activities.

**Response 26:** Ohio EPA does not believe this condition limits HTS's permitted activities.

**Comment 27:** Page 17, B.2(b) - Requires notification to EPA in WRITING. I believe that EPA is close to implementing an electronic notification system.

**Response 27:** The current rule requires notification in writing. HTS may submit a permit modification request when the rule changes.

**Comment 28:** Page 17, Section B.3(b) - There is no regulatory basis for the annual verification of analysis for each waste stream. As part of the complying with the WAP, HTS is continuing to sample and verify conformance with waste streams. Points:

(a) Not all waste streams are sampled (some waste streams rely on generator information due to safety issues)

(b) Not all waste streams are active – some are one-time shipments that are never used again.

(c) HTS requires generators to verify accuracy of profiles (active profiles) annually. If a waste stream is shipped on in 12 months, the waste streams in active and generator needs to verify waste stream prior to shipping.

(d) Any waste stream that has change significantly must go thru the approval process again.

**Response 28:** Ohio EPA agrees and has changed the permit to include language that HTS shall verify active waste streams annually from the first shipment date.

**Comment 29:** Page 18, Section B.3(c) - There is no regulatory basis for requiring all Phenolic wastes to be treated by incineration.

**HTS may opt to send phenolic waste to alternate treatment facility. 40 CFR 268 provides concentrations or treatment standards for phenolic wastes that must be met in order to consider the phenolic waste “treated”.**

**Response 29:** Ohio EPA agrees and has changed the permit to include the option to send the waste to an alternate facility for treatment and/or disposal.

**Comment 30:** **Page 18, Section B.3(d) - There is no regulatory basis for requiring incineration of organic wastes. HTS may elect to ship organic wastes off-site for treatment. HTS must comply with 40 CFR 268 to dispose of hazardous waste. There is a general statement that says only approved treatment methods may be used – there is no need for this statement.**

**Response 30:** Ohio EPA agrees and has changed the permit to include the option to send the waste to an alternate facility for treatment and/or disposal.

**Comment 31:** **Page 19, Section B.7(c) - Requirement of spark proof tools is not part of the regulation. The regulation requires precautions to be taken to prevent accidental ignition or reaction. The regulation lets the regulated community decide the best method to comply with the requirement. Due to the large quantity of tools used by HTS during handling operations and the vast number of waste streams processed at HTS, it is cost prohibitive to purchase spark proof tools that are disposable. HTS has implemented procedures for ensuring that tools used for waste handling operations will not cause an ignition or reaction with the waste.**

**Response 31:** Ohio EPA agrees and has changed the permit to include language that HTS will take precautions to prevent accidental ignition or reaction of waste during all operations including, but not limited to, grounding tools, using spark proof tools or implementing work practices that minimize ignition or reaction hazards.

**Comment 32:** **Page 19, Section B.8 - Riverbank inspection references Permit Condition B.44. The Permit Condition is B.41.**

**Response 32:** The most current draft permit version references Condition B.42 which is correct.



- Comment 33:** Page 30, Section C - 4th paragraph states containers are inspected daily while in storage. The regulatory requirement is weekly, not daily. HTS should be held to the regulatory requirement and not more than. Not all containers in storage are inspected daily. Containers on trailers are not required by the Permit to be inspected daily. Application states weekly, in accordance with OAC 3745-55-74, OAC 3745-50-44 (A)(5).
- Response 33:** Ohio EPA agrees and has changed the permit to include the weekly inspection requirements found in OAC Rule 3745-55-74.
- Comment 34:** Page 31, Section C - Container Holding Building – Storage is permitted on the floor of this building, not just the center of the floor.
- Response 34:** Ohio EPA agrees and has changed the permit to indicate that storage is permitted on the entire floor of this building.
- Comment: 35:** Page 32, Section C - North and East Storage Areas - Onsite generated waste include more than what is listed in this paragraph (4th paragraph).
- Response 35:** Ohio EPA agrees and has changed the permit to include language that HTS generates waste other than what is listed in the paragraph.
- Comment 36:** Page 34, Section C.1(a) - This section authorizes HTS to store 855,475 gallons of hazardous waste. This should read “up to 855,475 gallons.”
- Response 36:** Ohio EPA agrees and has changed the permit to state, “up to 855,475 gallons.”
- Comment 37:** Page 34, Section C.1(b) - Computer has the capabilities of tracking permitted storage capacities at all times, except during power outages or computer malfunction. Processing should be halted on these occasions.
- Response 37:** Ohio EPA agrees and has changed the permit to include language that the computer has the capability of tracking the permitted storage capacities at all times except during malfunction, maintenance or during power outages. Processing of incoming

waste will be halted on these occasions until capabilities have been restored.

**Comment 38:** **Page 37, Section C.9 - Container inspections are required weekly by OAC regulation. Permit should reference the regulatory requirement. Application states weekly per OAC 3745-55-74, OAC 3745-50-44 (A)(5).**

**Response 38:** The first paragraph of Section C.9 states that the container storage areas must be inspected in accordance with OAC Rule 3745-54-15, General Inspection Requirements. Paragraph B(4) of this rule states that the inspection schedule must include the frequencies called for in OAC Rule 3745-55-74 which includes the weekly (once during each period from Sunday to Saturday) inspection requirements. Therefore, changing the permit is not necessary.

**Comment 39:** **Page 39, Section C.15 - 1st paragraph – Not all staging areas have automatic fire detection and suppression. Language in Permit application states “most”, not all have automatic fire detection and suppression.**

**Response 39:** Ohio EPA agrees and has changed the permit to state that all staging areas will have automatic fire detection and suppression except for the outdoor areas including the North, East and Bulk Solid Storage Area.

**Comment 40:** **Page 39, Section C.15 - Direct Tankers do not always begin processing within 24 hours and that should not be an issue. We are permitted to stage tankers up to 72 hours. The restriction for 24 hours should only apply to tankers that contain waste that have a permit restriction, such as class 1 A flammables. The other wastes, which can be stored if arriving in non-bulk containers, should not be restricted. We can stage tankers up to 72 hours.**

**Response 40:** Ohio EPA agrees and has changed the permit to include language that only direct-tankers containing a waste prohibited from storing must be processed within 24 hours.

**Comment 41:** **Pages 40-41, Section C.15 - In regard to staging. Some areas have designated staging times listed in hours and some listed in days, this could cause some confusion.**

- Response 41:** Ohio EPA agrees and has changed this section of the permit by converting staging times from days to hours
- Comment 42:** **Page 43, Section D - 4th Paragraph – Organic waste tanks receive waste from containers and bulk not just bulk.**
- Response 42:** Ohio EPA agrees and has changed the language in the module highlight paragraph. The word “bulk” has been changed to “containerized.”
- Comment 43:** **Page 43, Section D - 5th Paragraph – How the PT system operates should not become a permit condition. As listed, it could be interpreted that any change to what is listed is a permit modification.**
- Response 43:** Ohio EPA agrees and has changed the language in the module highlight paragraph.
- Comment 44:** **Page 44, Section D - General Wastewater Treatment System – water from this system may also be incinerated on-site.**
- Response 44:** Ohio EPA agrees and has changed the language in this module highlight paragraph to indicate that this wastewater may also be incinerated on-site.
- Comment 45:** **Page 67, Section H - 3rd Paragraph – Discussing the shredder locations and mode of operation. The location and mode of operation will be determined at installation. HTS will need to complete a permit modification to install the shredders and will provide necessary information at that time.**
- Response 45:** Ohio EPA agrees and has changed the permit by deleting the language that discusses the location and method of operation of the shredder since it is not yet built.
- Comment 46:** **Page 69, Section H.6(b)(iii) - Location of shredders will be determined during the engineering phase. A permit modification will be submitted to update permit information for the shredders.**
- Response 46:** No changes are necessary. The permit condition does not discuss the location of the shredders.

**Comment 47:** Page 75, Section I.3(d)(ii) - Title V and RCRA permit should be consistent with description on when requirements for the Incineration system are required. RCRA states “all times waste is in the kiln”. Title V (MACT) applies prior to residence time expiring. Most of the kiln controls / limits / parameters are regulated under MACT, use MACT terminology.

**Response 47:** Ohio EPA agrees and has changed the RCRA permit language in this section to be consistent with the Title V permit language. The language “except during maintenance or when waste residence time has expired” has been added to (d)(ii), (d)(iii) and (d)(vi).

**Comment 48:** Page 75, Section I.3(d)(iii) - Most recent CPT was March 2015.”

**Response 48:** Ohio EPA agrees and has changed the permit language by replacing the older test dates with the most recent Comprehensive Performance Test/Trial Burn (CPT).

**Comment 49:** Page 76, Section I.3(d)(iii) - Title V and RCRA permit should be consistent with description on when requirements for the Incineration system are required. RCRA states “all times waste is in the kiln”. Title V (MACT) applies prior to residence time expiring. Most of the kiln controls / limits / parameters are regulated under MACT, use MACT terminology.

**Response 49:** Ohio EPA agrees and has changed the permit. See Response 47.

**Comment 50:** Page 76, Section I.3(d)(vi) - Title V and RCRA permit should be consistent with description on when requirements for the Incineration system are required. RCRA states “all times waste is in the kiln”. Title V (MACT) applies prior to residence time expiring. Most of the kiln controls / limits / parameters are regulated under MACT, use MACT terminology.

**Response 50:** Ohio EPA agrees and has changed the permit. See Response 47.

**Comment 51:** Page 77, Section I.3(f)(ii) - If Dioxin/furan rolling average is greater than 0.1 ng/dscm notification must be made to Director and HTS must evaluate why and develop corrective actions. There is not regulatory basis for this requirement. MACT has determined that 0.2 ng/dscm is protective of human health and the environment.

**Response 51:** Ohio EPA agrees and has removed that section of the permit since MACT has determined that 0.2 ng/dscm is protective of human health and the environment and HTS has demonstrated emissions less than 0.1 ng/dscm over the last 15 years.

**Comment 52:** **Page 79, Section I.9 - The inclusion of the carbon adsorption system in this incineration section is misleading. This system is not a component of the incineration system. Inclusion of it in this section may imply that incineration gases are being treated in this system.**

**Response 52:** Ohio EPA agrees and has changed the permit to clarify that the carbon adsorption system is not part of the incineration system.

**Comment 53:** **Page 102, Section B - Discussion on 60-minute averages does not pertain to the metals listed in A. These metals have annual emission limits and annual feed rate not hour feed rates. Feed rates are set thru MACT. Confusing language could be interpreted that there is an hourly feed rate for metals.**

**Response 53:** Ohio EPA agrees and has changed the permit to include that feed rates have been established through the most recent CPT.

**From: Public**

**Comment 54:** **This facility never should have been here - siting issues and purchasing issues.**

**Response 54:** When a facility proposes operation, Ohio EPA evaluates the allowable pollutant levels and the effect on human health and the environment. The permitting process helps ensure that citizens in the area will not be adversely affected. In 1984, the Hazardous Waste Facility Board determined that the state's siting criteria was met. This decision was appealed to and subsequently upheld by both the Franklin County Court of Appeals [West Virginia v. Hazardous Waste Facility Board (no.84AP-496)] as well as the Supreme Court of Ohio (affirmed December 24, 1986). The siting criteria for HTS was a valid decision that was made more than 30 years ago and HTS has been constructed and operating for more than 20 years.



**Comment 55: Permit application (in 1983) was not signed.**

**Response 55:** There was no application for an air permit submitted in 1983. HTS applied for a hazardous waste facility installation and operation permit with Ohio EPA in September 1981. A final revised application addressing Ohio EPA's comments was submitted in October 1982. Pursuant to Ohio's hazardous waste laws, a review of the application was conducted by Ohio EPA staff. Based upon review of the application, it was determined to be complete and complied with the hazardous waste requirements specified in Ohio law.

**Comment 56: Permits are not adequate to protect health and the environment. (located 320 feet from neighbors, stack height is so low, and it sits in a flood plain)**

**Response 56:** U.S. EPA conducted a comprehensive study in May 1997 titled "Risk Assessment for the Waste Technologies Industries (WTI) Hazardous Waste Incineration Facility (East Liverpool, Ohio)." This assessment contained three major components: the Human Health Risk Assessment provided detailed analysis of human health risks associated with ongoing exposure to facility emissions, using site-specific information; the Screening Ecological Risk Assessment was a conservative screening analysis to look at plant, fish and wildlife risks associated with ongoing exposure to HTS emissions; and the Accident Analysis was an evaluation of the likelihood and possible effects of accidents at HTS. Using information gathered from emissions testing conducted at HTS, atmospheric dispersion and deposition modeling was performed to estimate off-site exposures. To ensure accuracy for the modeling, a site-specific model was developed. One of the primary conclusions from the study was that the estimated average total cancer risk and average noncancer hazard index indicated that cancer and noncancer health effects were not anticipated because of routine exposure to facility emissions.

As part of the 1997 study, the actual stack height of the incinerator was used to model emissions. The study acknowledged that the stack height was less than the Good Engineering Practice (GEP). GEP (from section 123 of the Clean Air Act) does not determine minimum stack height, but instead has been used in air modeling to accurately predict ambient concentrations and appropriately credit sources for their contribution while avoiding distortion caused by

excessive dispersion based on taller than GEP stacks. If a stack is less than GEP height, building downwash effects should be considered within the model input file. Even with the lower-than-GEP stack height, the modeling did not show an effect on the deposition fluxes from the stack.

The supporting data behind the 1997 assessment was reevaluated in October 2015 as part of the review of the RCRA C – Hazardous Waste permit. It was determined that there were no significant changes to the conclusions of the 1997 study, and that compliance with the standards of 40 CFR Part 63 Subpart EEE is protective of human health and the environment.

HTS was built in a 500-year flood plain which was ruled acceptable by the Ohio Hazardous Waste Facility Board during the siting process (see Ohio EPA Response Number 54).

**Comment 57: Residents complain of odors and exposure fears.**

**Response 57:** Ohio EPA dispatches investigators to identify any odor complaint that is received. A review of Ohio EPA files shows that few complaints have been received over the past few years near HTS.

**Comment 58: The dioxin limit violations have never been corrected.**

**Response 58:** Presumably this comment is about the failed dioxin/furan (D/F) test results during Condition 2 of the 2010 Comprehensive Performance Test (CPT). HTS reduced feed amounts, adjusted Enhanced Carbon Injection rates and re-tested four months later, and demonstrated compliance with the standard. D/Fs were tested for during the Confirmatory Tests conducted in 2012 and 2017 and a CPT test that was conducted in 2015, without a D/F failure. Ohio EPA believes the amount of carbon injection and the location of the carbon injection has rectified the problem.

**Comment 59: Ombudsman recommendations to shut facility down for 6-months (to do another trial burn for risk), never came to fruition.**

**Response 59:** HTS took precautions to reduce potential dioxin emissions until

another compliance test could be performed. Ultimately, HTS passed the D/F re-test after initial failure and has passed multiple times since.

**Comment 60:**        **The application has a history of past and continuing violations under its RCRA Subtitle C Permit and its Title V Permit that indicates an inability or lack of intention to comply with application regulations.**

**Response 60:**     Many of the violations that are referred to are Operating Parameter Limitation (OPL) exceedances. When an OPL exceedance is monitored, HTS has a Waste Feed Cut-Off (WFCO). Waste cannot be fed to the incinerator until the OPL is within acceptable parameters. HTS does not want to have an OPL exceedance because it cannot feed waste into the incinerator until the OPL is within acceptable parameters.

As part of the hazardous waste renewal process, HTS's history of compliance is evaluated. At HTS, each incident is investigated by Ohio EPA to determine its significance relative to HTS's permit and Ohio laws and regulations. After an incident is evaluated, corrective steps are taken to prevent the incident from recurring in the future. If appropriate, a violation is cited which may or may not lead to enforcement.

**Comment 61:**        **WTI was improperly sited.**

**Response 61:**        See Ohio EPA Response 54.

**Comment 62:**        **What we need is for you to decrease the total tonnage now and never increase it.**

**Response 62:**     The total tonnage that HTS can incinerate is based on the hourly feed rate. The maximum hourly feed rate is set every five years during the Comprehensive Performance Test (CPT). It should be noted that normal production rates are well below the maximum hourly feed rate and the total tonnage processed is well below the permitted maximum, due to normal facility production and downtime. There does not appear to be any reason to restrict throughput further.

**Comment 63:** **All air testing (for particulate matter) should be done, not just at their property limits, but beyond that, significantly, and increase the testing and make sure that you consider the testing, not just the money, and the need for hazardous waste facility when you do permits and modifications.**

**Response 63:** The particulate matter limits set by the rule are meant to be protective of human health and the environment. Currently, HTS is required to test for particulate matter and dioxin/furans (considered the most hazardous pollutant) every 2.5 years. Metals and chlorines are tested for every five (5) years. Every five (5) years HTS is required to “stress” the incineration system and the air pollution control equipment. This “stress test” is done at maximum and minimum levels, maximum feed rates of pollutants and minimal control levels, all at the same time. The purpose is to set Operating Parameter Limits (OPLs), for key operating parameters, that HTS is required to operate within. Ohio EPA also operates a network of particulate air monitors in the East Liverpool area. These monitors continue to show that the area complies with the National Ambient Air Quality Standards.

**Comment 64:** **The Commenter doesn't believe that 10% sampling seems to be statistically significant. It should be at least 25 percent and I don't care what they do, I only care what is required because if it's not written down, it doesn't count.**

**Response 64:** HTS uses detailed analytical data to establish all waste profiles prior to acceptance at HTS. Once a waste profile has been established, HTS is required to check at a minimum of 10 percent of the waste received per truck load per each waste profile. This is conducted to ensure that the waste received matches the approved waste profile. Ohio EPA is continuing to study this issue to ensure that the sampling required is sufficient to provide assurance that emission limits are being met. At this time, Ohio EPA is comfortable with the 10 percent sampling method that HTS has been implementing but can require HTS to conduct additional sampling if deemed necessary. This is consistent with federal guidance on waste analysis plans.

**Comment 65:** **Money from fines should go back to the community.**

**Response 65:** Half of the penalty money collected by DAPC is put in the environmental education fund to support environmental education

across the state. The other half supports the permitting program. A company can petition to be allowed to offset a portion of the penalty with a supplemental environmentally beneficial project (SEP). The SEP would have to be approved by Ohio EPA and would have to demonstrate a substantive environmental benefit.

Any fines collected by the hazardous waste program goes into the hazardous waste cleanup fund. Those monies help support the hazardous waste program along with any cleanup projects around the state.

**Comment 66:       Modify the permit so it is not as onerous to the residential area.**

**Response 66:**    The permit includes the rules and regulations that apply to HTS. The rules and regulations are intended to be protective of human health and the environment, regardless of location.

**Comment 67:       The siting of the plant location is terrible.**

**Response 67:**    See Ohio EPA Response 54.

**Comment 68:       The commenter believes there had been collusion between EPA and facility.**

**Response 68:**    Ohio EPA enforces the rules and regulations that are promulgated by both U.S. EPA and the State of Ohio. This is a transparent process. Our records are public and can be reviewed through a public records request.

**Comment 69:       The plume turns magenta in color and they say not to worry, and you allow them to continue burning.**

**Response 69:**    The magenta color referred to has been traced back to a waste stream that contains iodine. The iodine reacts with the moisture in the gas plume to create a magenta plume. The levels of iodine being fed have been modeled and the stack gas has been sampled (1997) during a magenta plume event. The results were modeled (1998 and 2009) and determined to cause no harm to human health or the environment. When HTS is aware that an iodine feed will be entering the incinerator, they introduce a neutralizing agent to neutralize the iodine in the gas stream before the plume turns magenta. Occasionally, not enough neutralizing agent is introduced



to neutralize the entire gas stream. Since the iodine is not determined to cause harm to human health or the environment and since there are no rules or regulations that govern iodine, the neutralization process is not regulated by Ohio EPA.

**Comment 70: Explosions rock my windows and they say no harm done.**

**Response 70:** Based on facility operating records, including air monitoring records, as well as Ohio EPA's own air monitoring results, Ohio EPA is unaware of any explosions that caused emissions that were harmful to human health. If the commenter is referring to the July 13, 2013, incident, please see Ohio EPA Response 40, below.

**Comment 71: Ash blows over our houses, our pools, gardens and they continue to burn.**

**Response 71:** On July 13, 2013, an ash release that occurred at HTS, due to a malfunction was reported. HTS was issued Director's Final Findings and Orders and Penalties were paid. The Ohio Department of Health evaluated the ash release and reported that areas which would have been impacted by the disposal of ash from the incident were not statistically different from statewide background concentration of metals.

**Comment 72: They are labeled chronic and habitual violators by you, and you still allow them to burn.**

**Response 72:** Ohio EPA cites violations and seeks penalties when HTS violates the conditions of their permit to install or Title V Permit. If a malfunction occurs that is excessive (as the ash release) Ohio EPA will initiate an enforcement action. Ohio EPA does not have authority over OSHA related issues.

**Comment 73: Employees are burned, a truck driver dies, spills happen, chemicals react together causing fires and they continue to burn.**

**Response 73:** See Ohio EPA Response 72.

**Comment 74: A federal judge says WTI financial loss outweighed the risk of the health of the community.**

- Response 74:** Ohio EPA is not aware of the specific situation to which the commenter is referring. Ohio EPA does not take financial benefit or financial detriment into account when evaluating a permit for a facility. Ohio EPA evaluates a facility solely on the environmental rules and regulations that are in place to be protective of human health and the environment.
- Comment 75:** **Commenter cites cancer cases in the area and wants EPA not to renew the permit.**
- Response 75:** Ohio EPA is unaware of elevated numbers of cancer cases in the surrounding area. Any investigation into cancer rates would be done by the Ohio Department of Health (ODH). If ODH determines that an area has increased cancer rates, Ohio EPA can assist in investigating a cause.
- Comment 76:** **A federal judge in Cleveland ruled it shutdown, case was overturned on appeal.**
- Response 76:** Ohio EPA is not aware of the situation mentioned by this commenter.
- Comment 77:** **Info submitted to a WV judge - the worth of WTI was claimed to be \$160 million, he claims it is \$65 million.**
- Response 77:** Ohio EPA does not have information on the net worth of HTS, nor is the net worth of HTS considered during any portion of the permitting process.
- Comment 78:** **What action has or will be taken regarding the letter citing violations (March 23, 2015).**
- Response 78:** The violation referred to is a Finding of Violation (FOV) issued by U.S. EPA. Enforcement negotiations between HTS and USEPA are ongoing.
- Comment 79:** **The percentage that are being batch tested to see exactly whether the formulas match with what the customer's saying they are sending. Heritage Thermal, according to State Fire Marshall's having right around 200 fires or explosions within their facility. I feel that 10 percent is definitely not cutting it at this point.**

**Response 79:** See Ohio EPA Response 64.

**Comment 80:** **One place where I'm looking at is where the percentage that are being batch tested to see exactly whether the formulas match with that customer's saying they are sending....I feel that 10 percent is definitely not cutting it at this point. It was just a few months ago, a container aniline was opened, and it was not marked properly and one of those workers was sent by life flight to the hospital. So, I would like that to be addressed and to see that percentage come up more.**

**Response 80:** See Ohio EPA Response 64.

**Comment 81:** **Also, I would like to ask more about to see this addressed, is 12-hour rolling average. This is for rolling average of emissions, I believe I'm explaining that properly. If they are going on a 12-hour rolling average, what is to stop them from heavy feeding at the beginning and light feeding at the end or vice versa, to protect that average? So, I would like to see that also tweaked to better protect our community.**

**Response 81:** The 12-hour rolling averages are set by the federal MACT rule. Ohio EPA's rules do not allow for a more stringent averaging period.

**Comment 82:** **If facility out of compliance how can they renew permit, when you go onto the EPA website you will see the last 12 quarters out of compliance. How can permit be issued.**

**Response 82:** See Ohio EPA Response 60.

**Comment 83:** **They should not be eligible for a renewal due to many past infractions.**

**Response 83:** See Ohio EPA Response 60.

**Comment 84:** **Would like full disclosure of the Enhanced Carbon Injection Feedrates.**

**Response 84:** HTS had claimed Confidential Business Information (CBI) regarding the feed rate and the feed location of carbon injection. Ohio EPA has worked with HTS and has agreed that the feed rate amounts

are not CBI; however, the location of the carbon feed may be kept as CBI.

**Comment 85:** **HTS should be held accountable for exactly what it is they are receiving. Spot checking leaves room for error.**

**Response 85:** See Ohio EPA Response 64.

**Comment 86:** **Other things to consider, only burn during daylight hours.**

**Response 86:** Ohio EPA is not certain what is meant by this comment. HTS is required to operate a Continuous Opacity Monitor (COM) to continuously read the stack opacity. The COM is in the stack and the presence or absence of light is immaterial. The COM is tested each year to ensure accurate readings.

**Comment 87:** **In case an emergency situation happens, it should be spelled out that the community needs to be notified within an appropriate amount of time.**

**Response 87:** The State Emergency Response Commission (SERC) and Local Emergency Planning Committee (LEPC) handle these requirements. If the emergency includes a malfunction resulting in a violation of emission limitations, HTS must notify DAPC immediately. HTS is also required to notify Ohio EPA within 24 hours of noncompliance that may endanger human health or the environment.

**Comment 88:** **Comments on the proximity of the plant to the community.**

**Response 88:** Ohio EPA is committed to protecting human health and the environment. The Agency's permits include limits on emissions to ensure they are not emitted at levels that could adversely impact the community. Ohio EPA evaluates pollution exposure scenarios based on constant exposure 24 hours a day, 365 days a year and for a lifetime. The federal MACT rules are designed to protect all citizens from air toxic emissions. The permit requires HTS to comply with all state and federal rules and regulations developed to attain and maintain National Ambient Air Quality Standards for all criteria pollutants. Those standards are designed to be protective of human health and the environment regardless of HTS proximity to residents.

**Comment 89:**        **The stacks are too low.**

**Response 89:**      See Ohio EPA Response 56.

**Comment 90:**        **The commenter doesn't believe anyone can say definitively if the facility is safe or not. Following rules and regulations or not.**

**Response 90:**      Ohio EPA is tasked with enforcing the rules and regulations that have been promulgated by the State of Ohio and the federal government. The rules and regulations are meant to be protective of human health and the environment and are based sound science.

**Comment 91:**        **The commenter thinks it is a conflict of interest that when facility pays fines, the EPA makes money.**

**Response 91:**      See Ohio EPA Response 65

**Comment 92:**        **Stacks were lowered because Pittsburgh sued.**

**Response 92:**      Ohio EPA is not aware of any lawsuit filed due to stack height.

**Comment 93:**        **If money is available for festivals, why not money available to sample more than 10% of waste.**

**Response 93:**      See Ohio EPA Response 64.

**Comment 94:**        **Would like someone that is not paid by WTI to do monitoring, recordkeeping, reporting, and testing.**

**Response 94:**      While it is true that HTS must perform extensive monitoring, record-keeping, reporting, and pays third-party contractors to perform emission tests, Ohio EPA ensures compliance in several ways. All emissions testing performed is witnessed by Ohio EPA staff to ensure stack test methods are done correctly. HTS has several emissions monitoring devices. The certification process for these devices is witnessed by Ohio EPA to ensure they are accurately recording actual emissions. Ohio EPA inspects HTS to ensure that monitoring and record keeping practices are sufficient to comply with the permit. Ohio EPA also reviews all reports submitted to determine if there are any violations or abnormalities that need to be investigated further.



**Comment 95:** **Would like to see more safeguards in place for dioxin emissions.**

**Response 95:** Stack testing for dioxins is performed while operating under conditions that will maximize dioxins creation. During this testing, operating parameter limits (OPLs) are established on the control devices that must be met always to ensure compliance. Most importantly for dioxins, the location and feed rates of the Enhanced Carbon Injection System (ECIS) are established. If these OPLs are not met, the system automatically stops feeding any waste to the incinerator immediately.

**Comment 96:** **Heritage Thermal Services should be held accountable for verifying exactly what it is they are receiving. If that knowledge isn't accessible or present, it is impossible to determine the appropriate method of incineration, or whether or not they should have initially accepted the waste in the first place. Spot checking leaves room for error as a past incident would indicate that that's definitely like bad news waiting to happen.**

**Response 96:** See Ohio EPA Response 64.

**Comment 97:** **The health of East Liverpool residents is adversely impacted by WTI, for the past 20 years there have been repeated violations.**

**Response 97:** Ohio EPA is not aware of community adverse health effects attributed to the presence of HTS. When a report identifies an emission exceedance, Ohio EPA will issue a Notice of Violation (NOV). HTS has had NOVs issued over the past 20 years. The majority of these NOVs were issued for exceedances of Total Hydrocarbons (THC), Nitrogen Oxides (NOx), and Sulfur Dioxide (SO<sub>2</sub>). The NOVs for the NOx and SO<sub>2</sub> were issued based on emissions data submitted by HTS that did not consider the appropriate averaging time, over-inflating the results. The THC exceedances, while an emission exceedance, is also an OPL, therefore, when a THC exceedance occurs, all feeds to the incinerator are immediately shutdown, resulting in minimal emissions released to the atmosphere.

**Comment 98:** **Read an article quoting USEPA. The USEPA found that Heritage incinerator emitted gasses that contained high levels**

**of toxic chemicals into the air 195 times over 175 days from November 2010 through December 2014.**

**Response 98:** It is not clear what releases U.S. EPA was referring to. Ohio EPA is not aware of any significant releases of toxic emissions throughout this timeframe. U.S. EPA is currently in negotiations with HTS regarding previous violations cited.

**Comment 99:** **The applicant has a history of past and continued violations of its...Title V permit that indicate an inability or lack of intention to comply with applicable regulations.**

**(a) Permittees have an obligation to comply with the conditions of their permit.**

**Response 99(a):** See Ohio EPA Response 60.

**(b) Noncompliance is grounds for permit revocation or modification or for the denial of an application.**

**Response 99(b):** Continued noncompliance can be the grounds for denying or revoking a permit; however, Ohio EPA has not identified HTS as such a facility.

**(c) For as long as Heritage has had to monitor its hydrocarbon emissions, Heritage has been in noncompliance with its hydrocarbon emission limit. The EPA recently cited Heritage for approximately 195 instances of violating this standard between November 2010 and December 2014. Heritage has continued to violate this standard since EPA's citations.**

**Response 99(c):** As stated in Ohio EPA Response 60, when HTS has a THC exceedance, a WFCO occurs. Each occurrence of a THC exceedance, immediately ceases feed streams to the incinerator, until the rolling hourly average is below the regulatory limit. If HTS was in continuous noncompliance with the THC standards, HTS would not be operating.

**(d) In July 2013, approximately 761 pounds of toxic incinerator ash exploded from a stack at the facility, covering the nearby neighborhood and**

**residences. An investigation into the explosion uncovered that Heritage has been in noncompliance with performance standards that allow toxic pollutants to be released into the environment around the incinerator. The EPA noted that the pollutants include: Organic hazardous air pollutants, including PCBs, dioxin/furans, metals such as manganese and antimony, mercury and lead, arsenic and chromium, hydrogen chloride; and chlorine gas.**

**Response 99(d):** On July 13, 2013, a report was made of an ash release due to a malfunction at HTS. HTS was issued Director's Findings and Orders and Penalties were paid. The Ohio Department of Health evaluated the ash release and reported that areas which would have been impacted by the disposal of ash from the incident were not statistically different from statewide background concentration of metals.

**Comment 100:** **Heritage also has a history of violating the short-term limitations in its permit for nitrogen oxides and sulfur dioxides as well as its opacity limitations.**

**Instead of coming into compliance with these limitations, Heritage has asked Ohio EPA to relax its compliance reporting requirements, a request which Ohio EPA has shamefully granted in its latest draft Title V permit.**

**Response 100:** The NOV's for the NO<sub>x</sub> and SO<sub>2</sub> were issued based on emissions data submitted by HTS that did not consider the appropriate averaging time, over-inflating the results.

**Comment 101:** **EPA has listed Heritage as being in significant violation of its Title V air permit for 12 of the last 12 quarters. EPA has Heritage listed as a high priority violator for all quarters for its violations.**

**Response 101:** Once U.S. EPA sends a Finding of Violation (FOV) or Notice of Violation (NOV), this information is entered into their ECHO database. The violation stays in the ECHO under the facilities name until USEPA resolves the violation. The resolution may be in the form of a Consent Decree with penalty and/or other requirements to ensure compliance (injunctive relief), additional FOV/NOVs,

litigation, or no further action may be necessary. HTS is listed as a High Priority because it is a Title V Facility and is subject to Federal rules (40 CFR Part 63). HTS being listed as a High Priority Violator indicates that the enforcement case is still being resolved, it does not necessarily mean that there are ongoing violations.

**Comment 102:**     **The proposed modification requires heightened review because the facility is located in an Environmental Justice Community. (claims that Ohio EPA is required to address)**

**Response 102:**    See Ohio EPA Response 7.

**Comment 103:**    **What can be done to stack height/design to make more efficient and safer?**

**Response 103:**    See Ohio EPA Response 56.

**From: U.S. EPA**

**Comment 104:**    **The draft permit is missing, the minimum activated carbon injection rate (lb/hr, hourly rolling average, calculated as the average of the test run averages), as required by 40 C.F.R. Sec. 63.1209(k)(6)(i).**

**Response 104:**    HTS claimed Confidential Business Information (CBI) regarding the feed rate and the feed location of carbon injection. Ohio EPA has worked with HTS and has agreed that the carbon feed rates are not CBI; however, the location of the carbon feed may be kept as CBI. These values have been included in the OPL table in the Title V permit. An additional term and condition has also been included in the permit regarding carbon specification.

**Comment 105:**    **The draft permit is missing, the carbon specification (brand and type of carbon used during the comprehensive performance test), as required by 40 C.F.R. Sec. 63.1209(k)(6)(iii).**

**Response 105:**    See Ohio EPA Response 104.

**Comment 106:**    **Please clarify whether the draft permit requires the Permittee to sample and analyze for arsenic, beryllium, cadmium, chromium, lead and mercury (maximum achievable control technology (MACT) metals) a specific percentage of “every**

**load that arrives at the facility” as specified in the statement of basis for the draft permit (SB).**

- Response 106:** The Statement of Basis (SOB) was in error. HTS does not sample a specific percentage of “every load that arrives at the facility.” There are some loads that are not sampled. In these cases, HTS relies on generator knowledge. HTS plans to demonstrate compliance with MACT regulations using the Feedstream Analysis Plan (FAP), as identified under C.5(d)(3) in the Draft Title V Permit. Ohio EPA recognizes the FAP may not provide enough detail for a comprehensive understanding of how HTS determines the constituents in the wastes they process, so Ohio EPA has attempted to better explain HTS process by adding a large portion of HTS Waste Analysis Plan (WAP) to the Title V Permit (Excluded is a section on Waste Analysis Requirements Pertaining to Land Disposal Restrictions). The WAP contains detailed procedures (sampling, analytical, handling) how HTS determines if a waste is accepted on-site. The WAP also explains how the constituents of the wastes are determined (whether on-site laboratory analysis, generator knowledge, outside laboratory analysis, etc.). A large section was added (B.5) to Part B of the Title V (facility-wide terms and conditions). Section (B.5) contains most of HTS WAP.
- Comment 107:** **The Permittee’s classification of feedstreams that are exempt from waste acceptance sampling and analysis (i.e., “Miscellaneous Special Wastes” or MSW) is too broad to properly account for MACT metal concentrations in the individual feedstreams. In addition, the feedstreams covered by the exempt categories include materials that EPA believes can be sampled and analyzed. USEPA provided specific examples of MSW streams that USEPA believes can/should be sampled, and provided strategies on sampling techniques.**
- Response 107:** While Ohio EPA believes that the current FSAP assures compliance with MACT requirements, the agency will address the need for an enhanced FSAP through discussions with Heritage to further explore the issue of MSW during the next CPT as a way of improving sampling analysis protocols.
- Comment 108:** **MSW feed streams “whose contents are sufficiently known, typically through a MSDS, analytical supplied by the generator, and/or other information that sufficiently documents the waste’s characteristics”. The comment continues to quote the**



**Waste Analysis Plan (WAP) in citing specific examples of such waste:**

- a) **commercial products or chemicals that are off-specification, outdated, slightly contaminated, banned, discontinued, or otherwise determined to be unusable;**
- b) **consumer products**
- c) **residues and debris from the cleanup of spills or releases of a single chemical substance or commercial product or a single waste which would otherwise qualify as a MSW**
- d) **waste produced from the demolition or dismantling of industrial process equipment or facilities contaminated with chemicals from the process.**

**The U.S. EPA requests that the generator ensures the “off-specification” waste is not “off-specification” due to the presence of MACT metals.**

**Response 108:** Ohio EPA agrees that the WAP should contain a requirement that any waste stream that is considered off-specification and is not sampled by HTS for the above-mentioned reasons, should contain a statement from the generator why the waste is considered “off-specification.” If the reason for the “off-specification” denotation is that metals are too high, HTS should sample the waste and determine the metal concentration prior to incineration. This topic will be included in further WAP discussions.

**Comment 109:** **The facility should not exempt from sampling and analysis “residues and debris” from the cleanup of single chemical or waste spills or releases. EPA believes such feedstreams can/should be sampled and analyzed for MACT metals unless the Permittee can adequately explain why those feedstreams cannot be sampled and analyzed. The spills covered by this exemption could potentially include media that was previously contaminated with unknown metal-containing constituents. Similarly, “waste produced from the demolition or dismantling of industrial process equipment or facilities contaminated with chemicals from the process” should not be exempted from**

**sampling and analysis for MACT metals unless the Permittee can adequately explain why those feedstreams cannot be sampled and analyzed.**

**Response 109:** Currently, Ohio EPA does not require that HTS perform sampling or analysis on “residues and debris” from single chemical spills or releases, if the single chemical is known and identified. However, this methodology will be investigated further as part of future WAP discussions.

Ohio EPA believes the sampling and analysis of “waste spills clean-ups” should depend on the generator’s knowledge of the waste spilled. If the generator does not know what material was spilled, then sampling and analysis should take place; however, if the generator knows about the material, no sampling or analysis needs to take place. While Ohio EPA acknowledges that trace amounts of additional contaminants may be introduced from the media upon which the waste stream is spilled, Ohio EPA does not believe the trace amounts warrant additional sampling or analysis for MACT metals.

Regarding “waste produced from the demolition or dismantling of industrial process equipment or facilities contaminated with chemicals from the process.” Ohio EPA believes HTS should attempt to quantify the contaminants from the industrial process and in cases where the industrial process used heavy metals – sampling is warranted; however, sampling and waste analysis of all industrial process equipment may not be practical.

**Comment 110:** **U.S. EPA believes that if analysis or sampling cannot be performed on the waste, the generator knowledge of the waste should be used as a surrogate. If the generator does not have knowledge of the waste, the Permittee should collect “wipe” samples of surfaces, or collect coating chips. The “wipe” and chip samples should be analyzed to determine waste constituents. Further, the use of generator knowledge should be consistent with EPA guidance as contained in Section 1.2 of Waste Analysis at Facilities that Generate, Treat, Store, and Dispose of Hazardous Wastes – Final, A Guidance Manual, EPA 530-R- 12-001 (April 2015).**

**Response 110:** Ohio EPA feels it is important for the generator to know about its waste - not just wastes that cannot be analyzed or sampled, but *all* wastes. Ohio EPA believes that every waste that is brought on-site should be accompanied by information about what the generator believes the waste to be. Ohio EPA does not believe “wipe” samples or chip analysis is necessary because every waste stream should be accompanied by information about what the generator believes it to be. Ohio EPA concurs that generator knowledge should follow some established protocol and standard operating parameters. This topic will be included in further WAP discussions.

**Comment 111:** **U.S. EPA has commented that if the Title V permit references parts of other plans, the applicable sections in those plans need to be incorporated into the Title V Permit, the USEPA recognizes that revisions to those plans must be incorporated into the Title V and be approved by Ohio EPA.**

**Response 111:** Ohio EPA has inserted applicable parts of the Ohio EPA-approved WAP into the Title V permit, see Ohio EPA Response 106.

#### **Attachment A U.S. EPA Comments**

**Comment 112:** **Comments concerning detection levels of metals. And if results of testing are recorded as “non-detect” the U.S. EPA desires the metals concentration be recorded at the level the metal would be detected or some other agreed upon surrogate.**

**Response 112:** Currently, HTS can assume that non-detect is zero. Recording a value at the level that metal could be detected would likely overestimate emissions significantly. For cases where there is information to indicate that the chemical exists in the waste stream, Ohio EPA will determine whether there is need for surrogate detection levels prior to the next CPT.

**Comment 113:** **More frequent testing (at least once per permit cycle) for all emissions limitations for F004 (Pneumatic Lime and Activated Charcoal Handling System) and P001 (Container Processing).**

**Response 113:** Regarding F004: These types of silos (cement, lime, carbon, etc.) with low grain loadings are not typically tested. Based on Ohio EPA’s engineering guide #16, additional testing is not necessary at this time.

Regarding P001: The emissions from these are generally sent to the incinerator, which is tested for compliance with very tight emission limitations on organics. As a backup, emissions are routed to a carbon adsorption system which is monitored by a continuous emissions monitoring system (CEMS) to detect breakthrough. Ohio EPA has not historically required testing these units, which is typical of units monitored by a CEMS. The CEMS is considered a better determination of compliance than periodic stack testing. A one-time stack test for P001 was performed in 2005 which demonstrated compliance and ongoing monitoring should be sufficient.

**Comment 114:** **U.S. EPA would like a more detailed explanation of what is meant by “The permittee shall comply with all applicable requirements contained in the most recent version of 40 CFR 63.1206” and “The permittee shall comply with all applicable monitoring requirements contained in the most recent version of 40 CFR 63.1209”**

**Response 114:** The requirements of 40 CFR 63.1206 and 40 CFR 63.1209 as they exist today are incorporated into the Title V. If these applicable requirements are changed, HTS would be required to comply with both the current Title V permit terms and conditions and the updated rule until the updated rule requirements were included in the Title V permit as a Title V permit modification.

**Comment 115:** **Frequency of testing is not identified for the following incinerator emissions: dioxin/furans, mercury, combined lead and cadmium, combined arsenic, beryllium, and chromium, beryllium, combined hydrochloric acid and chlorine gas, particulate emissions, and visible fugitive dust emissions.**

**Response 115:** Ohio EPA has inserted the requirements for the CPT and CFPT testing frequency into the permit

**Comment 116:** **Permit condition C.9.d)(8)e. requires a Leak Detection and Repair (LDAR) program. Please revise the permit to clarify that the LDAR program is a permit requirement for all applicable emissions units. Also, consider the option of using a Forward Looking Infrared (FLIR) camera as an alternative monitoring method.**

**Response 116:** Regarding the comment on LDAR: Permit term B.2.b) references 40 CFR 61, Subpart V – National Emission Standards for Equipment Leaks, which is applicable to the entire facility. Additionally, B.3.b) references OAC rule 3745-21-09(DD), leaks from process units that produce organic chemicals. Other federal rules that are applicable to HTS contain requirements for leak detection and are identified in the permit (40 CFR Part 63, Subpart DD and 40 CFR Part 61, Subpart J).

Regarding the comment on the FLIR: as provided in the General Provisions to 40 CFR Part 61, Heritage can propose an Alternative Work Practice (AWP) to Ohio EPA for approval that may include the use of a FLIR in addition to maintaining the annual EPA Method 21 requirements.

**End of Response to Comments**