



John R. Kasich, Governor
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RE: Heritage Thermal Services
Permit - Intermediate
Public Response
RCRA C – Hazardous Waste
Columbiana County
OHD980613541

Division of Materials and Waste Management (DMWM)

Response to Comments

Ohio Hazardous Waste Installation and Operation Permit – Class 2 Modification

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On October 7, 2014, Ohio EPA received a Class 2 hazardous waste permit modification application from Heritage Thermal Services (HTS). The modification application requested the following change to the permit:

- Increase the facility's currently permitted container storage capacity up to 25 percent;
- Re-allocate some existing storage capacity; and
- Construct a bulk solid storage area (BSSA) for both the increased container storage capacity as well as the re-allocated storage capacity.

This document summarizes the comments and questions received during the associated comment period for the Class 2 modification request which started on October 10, 2014 and ended on December 9, 2014.

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. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

Comments were received in both the form of letters and emails. A number comments received were in support of the modification. Ohio EPA has not created a response to comments of support.

The following comments and responses are grouped by topic.

Request to Process as a Class 3 Modification

Comment 1: Several commenters asked that the Class 2 permit modification request follow the procedures for a Class 3 permit modification.

Response 1: The modification process, described in detail in the regulations, provides timelines and structure to the regulated community, citizens and Ohio EPA. An increase in storage capacity up to 25 percent is defined in the appendix to Ohio Administrative Code (OAC) rule 3745-50-51 as a Class 2 modification. The regulations allow Ohio EPA's Director to consider public interest or the complexity of a Class 2 modification as justification for the modification to follow the Class 3 process, which includes public noticing of a draft permit, a second comment period and an opportunity for an Ohio EPA public meeting.

While many individuals submitted comments, they were largely the same comments and few of the comments were specific to the proposed modification (a request for increased storage). Therefore, the Director has determined, based on the nature of the requested change and the comments received, the Class 3 process was not warranted.

Concerns Related to Incineration Treatment Capacity

Comment 2: Commenters questioned how the proposed increase in the amount of waste stored on-site would not result in an increase in the amount of waste incinerated at the facility.

Response 2: Today's modification is specific to an increase in container storage only – HTS did not request changes to the incineration rate, as defined in the existing permit. Therefore, the modification does not authorize the permittee to incinerate waste at a rate beyond the existing authorized limit.

As indicated in HTS's modification request, the increased container storage capacity will facilitate operational and business flexibility at the facility.

Concerns Related to the Completeness and Adequacy of Modification Request

Comment 3: Commenters stated that the original request did not fully describe the proposed changes to the facility, did not adequately justify the need for the modification, and did not include the details necessary to evaluate the request. Commenters also indicated it was not clear how the 25 percent increase was calculated.

Response 3: HTS's justification for the modification is noted on the cover letter of the request: 1) to improve bulk solid waste management on-site resulting in a better feed mix to the incinerator; 2) to provide customers with uninterrupted services by adding more bulk storage capacity; 3) to accept business opportunities such as event jobs for bulk wastes; and 4) to more easily maintain regulatory compliance when the incinerator is not operating. This modification will also provide HTS with the operational flexibility needed to meet a changing waste market.

In response to a December 4, 2014 Notice of Deficiency (NOD) letter issued by Ohio EPA, HTS added needed information to the application. The NOD response, dated December 22, 2014, includes a clearer description of the volume calculations. The currently permitted container storage capacity for the facility is 684,380 gallons. An increase of 25 percent is 171,095 gallons ($684,380 \text{ gallons} \times 0.25 = 171,095 \text{ gallons}$). A total of 172,250 gallons of storage is to be re-allocated from the existing Drum Warehouse to the BSSA. The re-allocated storage plus the additional increase of 25 percent results in a combined volume for the BSSA of 343,345 gallons ($172,250 + 171,095$).

Concerns Related to the Design of the Bulk Solid Storage Area (BSSA)

Comment 4: Comments were made regarding the adequacy of tarps as cover for bulk containers such as rollofs and end-dumps and whether waste and/or containers would be exposed to weather. Commenters expressed concerns about potential air emissions since the BSSA will not be enclosed within a building and the design does not include vapor recovery or automated fire detection and suppression systems. Commenters also felt that the overall design of the BSSA, including the secondary containment system, was not adequate to protect human health and the environment.

Response 4: Unless waste is being added or removed, hazardous waste containers must be kept closed. Bulk containers, such as roll-offs and end-dumps, are covered with tarps. This is an industry-wide standard. Bulk containers of both on-site and off-site generated wastes are already permitted to be stored at specific locations within the HTS facility, including the North and East Storage Areas.

Smaller containers of hazardous waste, such as drums and pails, are not permitted to be stored “open-air” at the HTS facility. Individual containers may be stored in: 1) enclosed box trailers within certain locations; 2) enclosed buildings with fire detection and suppression systems; and 3) areas where there is a canopy, and fire detection and suppression systems. These existing restrictions minimize the exposure of individual containers to the weather. Empty containers may be stored outdoors.

In addition, all containers of waste are inspected by HTS personnel upon arrival for integrity and are inspected daily while on-site. Containers that arrive damaged are evaluated and either deemed acceptable, repacked or overpacked into another container, or processed as soon as possible.

The BSSA will not be enclosed within a building; therefore, a vapor recovery system and an automatic fire detection and suppression system are not required.

Existing storage areas have cameras and fire equipment available (including the “water cannon”). The proposed location for the BSSA is near the “water cannon” and within reach of the water spray.

The permit includes restrictions to limit the types of wastes which may be stored in these areas. Wastes containing free liquids are not permitted to be stored in the BSSA.

The secondary containment system proposed for the BSSA is similar to what already exists elsewhere at the facility.

Concerns Related to Monitoring and Inspection

Comment 5: Commenters expressed concern that air monitoring of the BSSA would not be conducted on a regular or routine basis, and the area would only be visually inspected once per day.

Response 5: Air monitoring of the proposed BSSA is not required under the regulations. Restrictions on the types of materials which may be stored and the activities which may be conducted in this area have been included in the application. Oxidizers, organic peroxides, pyrophoric materials, Mixed Infectious and Hazardous Waste (MIHW), highly reactive wastes, or highly volatile wastes are not permitted to be stored in the BSSA.

Regulations require an inspection of each container on a weekly basis. HTS conducts inspections of all containers upon arrival and also inspects all containers on-site on a daily basis. Specific area inspections, safety inspections, housekeeping inspections, perimeter inspections, and other walk-throughs of the facility are done on a regular basis. In addition, cameras are positioned throughout the facility, such as the perimeter and in various locations within buildings, and are monitored by security personnel.

Concerns Related to Proximity of BSSA to Residences

Comment 6: Commenters expressed concern that hazardous waste would be located less than 1,000 feet from a residential neighborhood. One commentor indicated this modification would allow waste to be stored significantly closer to homes .

Response 6: Residential areas are located to the north and west of the facility. The Ohio River is to the south and other industrial facilities are located to the east. The regulations require a minimum distance of 50 feet from a property line for storage of ignitable hazardous waste.

The facility's perimeter fence is a distance of 50 feet or more from the actual property line. The fence will be extended to include the BSSA.

The BSSA will be located completely within the existing facility's property boundaries, in the currently undeveloped area to the east.

Concerns Related to Environmental Justice

Comment 7: Commenters stated the facility is in a location designated by U.S. EPA as an Environmental Justice Area and that the modification will cause additional burden to the community. Commenters also expressed concern that the East Liverpool area is being

discriminated against because of a predominantly African American population and/or because residents are of a lower-income than surrounding communities.

Response 7: Ohio’s statutes and rules, and Ohio EPA’s implementation of them, are equally protective of citizens regardless of their race, ethnicity, or socioeconomic status. Ohio EPA is committed to ensuring all Ohioans are provided the same degree of protection from potential environmental hazards, as well as equal access to our decision-making process.

In 2005, U.S. EPA notified Ohio EPA that the area around HTS qualifies as a “potential environmental justice area” and recommended the agency to continue to enhance public outreach to the community.

For many years now, Ohio EPA has provided information to interested citizens with the type of enhanced outreach efforts recommended for a potential environmental justice area. Ohio EPA has worked to effectively communicate Agency decisions, encourage community participation in the permitting process and ask for public comments on proposed actions.

As a recipient of federal funding, Ohio EPA is required to comply with Title VI of the Civil Rights Act. The Agency is meeting its legal obligations and implementing federal guidance through our technical review process and public involvement activities.

HTS is one of only a few permitted facilities where Ohio EPA maintains an onsite inspector to monitor operations, which enables us to respond quickly to community concerns. In addition, Ohio EPA’s Public Interest Center (PIC) remains only a phone call or email away when citizens have questions or concerns regarding environmental issues in the area. PIC’s Mike Settles can be reached via the contact information noted on the first page of this Response to Comments.

Concerns Related to Cancer Rates and Exposure to Neurotoxins

Comment 8: Commenters state East Liverpool has cancer rates that exceed the national average and that children in the area have higher than average rates of ADHD and learning disabilities due to exposure to manganese and other neurotoxins. Commenters refer to preliminary findings from a study conducted by the University of Cincinnati (no other reference provided).

Response 8: The modification does not impact existing incineration rates or emission limits.

In 2001, U.S. EPA conducted air monitoring in the East Liverpool area for contaminants including manganese. The resulting document, titled “A Final Report on Environmental Monitoring in the Vicinity of VonRoll WTI Incinerator Facility, East Liverpool, Ohio” was issued May 23, 2003. The results showed that manganese particles in the East Liverpool area were too large of a size to be emitted from an incineration system, but rather were consistent with particle size originating from a nearby ore crushing operation.

Results of U.S. EPA's monitoring determined that an incinerator was not the source of manganese in the area. Ohio EPA worked with the suspected source to reduce manganese emissions.

Concerns Related to the Compliance History of the Facility

Comment 9: Commenters raised concerns that HTS's history of violations indicates the facility is unable to comply or lacks the intention to comply with applicable regulations. Commenters also stated that Ohio EPA has referred to HTS as a habitual non-complier, and that OSHA has referred to HTS as a willful non-complier.

Response 9: As a permitted hazardous waste facility, HTS receives a comprehensive multi-day compliance inspection twice a year. Also, HTS is one of a few permitted facilities where Ohio EPA maintains an onsite inspector to monitor operations, which enables the Agency to monitor the facility's hazardous waste compliance on a daily basis (generally, Monday through Friday). If an instance of non-compliance is noted by our inspectors or reported by the facility, Ohio EPA takes action to bring the facility back into compliance. For review and issuance of a permit modification, Ohio EPA is required to follow the requirements found in OAC rule 3745-50-51, which does not include a compliance history evaluation (a compliance history evaluation is required under the permit renewal requirements). Compliance with certain other regulatory programs, such as OSHA requirements, is not something Ohio EPA has authority to consider.

For more details on the facility's compliance history, please check U.S. EPA's Enforcement and Compliance History Online (ECHO) data base at: <http://echo.epa.gov/>

Concerns Related to the July 2013 Ash Release

Comment 10: In July 2013, an incident occurred at the facility which resulted in a release of incineration ash some of which was deposited in the residential neighborhood west of the facility. A citizen commented that he felt Ohio EPA has not responded to citizen requests for information regarding that incident.

Response 10: Ohio EPA was very concerned with the July 2013 incident and impacts to the surrounding neighborhood. Ohio EPA's Public Interest Center staff were available to response to citizen concerns regarding the incident. In addition, the Agency responded to all requests for information related to the release.

The Ohio Department of Health (ODH) evaluated results of soil sampling conducted in the residential area affected by the ash fall event. A report titled Health Consultation (Evaluation of Soil Data from the July 13, 2013 Ash Release) dated March 19, 2014 was prepared by the ODH's Health Assessment Section (ODH HAS).

ODH concluded the trace amounts of toxic metals in the surface and shallow soils of the residential area affected by the July 2013 ash release are not expected to harm people's

health. Concentrations of these metals found in the soils are below levels of health concern.

Concerns Related to the Siting of the Facility

Comment 11: A commenter stated the facility should not have been built where it is located.

Response 11: The facility was sited and originally permitted in accordance with Ohio's hazardous waste laws. The siting of the facility is not under consideration with today's permit modification.

General Concerns

Comment 12: A citizen stated the BSSA will replace a wildlife refuge.

Response 12: The BSSA is proposed for a location completely within the existing facility's property boundaries. The HTS property is not a protected wildlife refuge. However, Ohio EPA understands HTS has voluntarily managed that portion of the property as a natural habitat and has enhanced it by removing invasive plants and planting native wildflowers and shrubs. HTS indicates the remaining area surrounding the proposed BSSA will most likely continue to be managed as a natural habitat.

Comment 13: Another commenter noted that no modifications are acceptable.

Response 13: Under Ohio's hazardous waste regulations, the permittee may request or the Director may initiate a modification of the permit. Ohio EPA evaluates permit modification applications in accordance with the requirements outlined in the regulations and either denies or approves the modification, as appropriate. If appropriate, Ohio EPA then modifies a facility's Part B permit to reflect the changes.

End of Response to Comments