RESPONSE TO COMMENTS
REGARDING THE FEDERAL
RESOURCE CONSERVATION AND RECOVERY ACT PERMIT
TO BE ISSUED TO ENVIROSAFE SERVICES OF OHIO, INC
OREGON, OHIO
OHD 045 243 706

INTRODUCTION

In accordance with title 40 Code of Federal Regulations (40 CFR) § 124.17, the United States Environmental Protection Agency (U.S. EPA) requested comments on its tentative determination to issue a new permit under the Resource Conservation and Recovery Act (RCRA) to Envirosafe Services of Ohio (ESOI), located in Oregon, Ohio, and on the draft terms of the proposed federal permit (permit). The Permit covers storage and treatment of hazardous waste received on site. The comment period commenced on May12, 2005, with a public notice in a local newspaper and a local radio station, and terminated on August 2, 2005. Pertinent information and materials were available at the Oregon Public Library and the Ohio Environmental Protection Agency office in Bowling Green, Ohio. U.S EPA received written comments from 3 submitters.

The U.S EPA hereby issues this written response to those comments pursuant to 40 CFR § 124.17. This section requires the U.S. EPA to: (1) specify in writing any modifications it has made to the provisions of a proposed RCRA permit, along with the reason(s) for any such change; (2) to describe and respond to all significant comments on the draft federal permit; and (3) to include any documents cited in the U.S. EPA's response in the administrative record.

Two of the commentors indicated a general opposition to the expansion of cell M, but made no reference to any items contained in the U.S. EPA permit. The permit will not be modified as a result of their comments.

The third commentor listed the following items in the submittal.

1. The commentor objected to the elimination of Corrective Action and other requirements contained in the previous U.S. EPA RCRA permit, claiming the elimination is unlawful, unreasonable, arbitrary and capricious. The commentor gave no citation of applicable law and did not specify what "other requirements" in the previous permit should be in the new permit..

U.S. EPA response: The longstanding practice of U.S. EPA at ESOI has been to eliminate provisions from the federal permit when Ohio EPA received authorization for the pertinent part of the RCRA program and adopts permit provisions equivalent to those in the federal permit. Ohio received authorization to administer the corrective action portion of the RCRA program in 1996. Subsequently, Ohio EPA added corrective action provisions to its permit equivalent to those in the federal permit. Accordingly, there is no longer any need for corrective action provisions in the federal permit. Corrective action will not be added to the federal permit.

2. The commentor objected to the addition of new waste numbers claiming they will not comply with the requirements of the Ohio EPA permit for cell M.

U.S. EPA response: The commentor did not specify which requirements of the Ohio EPA permit the new waste numbers will not comply with.

3. The commentor claimed "loose language" was rampant though out the draft U.S. EPA permit and specifically cited III.C.1.a, III.C.1.b, and III.C.1.d as examples of language that would make enforcement difficult.

U.S. EPA response:

III.C.1.a says the barrier shall be free of cracks that could cause hazardous waste to be released from the primary barrier. The language is specific that cracks shall not cause leakage through the primary barrier. The paragraph will not be changed.

III.C.1.b requires ESOI to ensure containment of managed waste, this would require that there be no breaches in the containment building that would allow escape of hazardous waste. The paragraph will not be changed.

III.C.1.d requires ESOI to prevent tracking of hazardous waste out of the SCB.

There has been a federal ESOI permit since 1988. U.S. EPA has not had the enforcement problems that Oregon suggests. U.S. EPA does not agree that the permit lacks clear, enforceable standards. The permit cannot possibly specify every detail in the way Oregon suggests - some things must be left to professional judgment. U.S. EPA is confident that it can enforce those provisions when necessary.

4. The commentor stated words like "may" or "might" should be changed to "shall" or "will."

U.S. EPA response: Oregon does not point to particular provisions. When the permit seeks to impose a requirement, U.S. EPA uses "shall" or "will" or "must." When we deliberately allow some flexibility, U.S. EPA use may or might. A review of the occurrences of "might" found only one occurrence of it and it does not weaken the permit. The permit will not be changed as a result of this comment.

5. The commentor claimed that the ILR and ALR levels in condition III.E are "far too high to accomplish their purpose."

U.S. EPA response: Oregon does not explain why the levels are too high, what levels Oregon would propose, or what the deficiency is in the determination of the levels. Except for CBS 1, all the ALRs are the same as were in the previous permit issued by U.S. EPA.

6. The commentor stated the semi-annual engineering assessments in condition III.I should be performed by an engineer who is an "independent, certified structural engineer" who were not involved in the design or construction of the building.

U.S. EPA response: Oregon doesn't provide events where the lack of independent, objective

engineers caused component failures. Professional credentialed - i.e., registered professional engineers are responsible for the quality of their work and will be held accountable for deficiencies. The permit will not be changed as result of this comment.

7. The commentor stated that all test data, inspections, etc submitted to U.S. EPA should be public record.

U.S. EPA response: All test data submitted to the U.S. EPA that does not qualify as confidential business information, and all U.S. EPA generated inspection data are available to the public. Oregon does not propose any specific permit changes. U.S. EPA does not believe any changes are necessary because U.S. EPA's policy is to make all such data public, unless they are claimed to be confidential business information (CBI). If CBI status is claimed, U.S. EPA holds the information confidential only while it conducts a CBI determination. If U.S. EPA determines that CBI status is not appropriate, U.S. EPA then makes the information public. See 40 CFR Part 2, Subpart B.

8. The commentor stated that III.J does not contain the specificity to ensure that small particles encapsulated and suggested microscopic examination is necessary rather than visual inspection.

U.S. EPA response: The encapsulation language is identical to the previous permit.

9. The commentor stated that ESOI has a history of violations which should preclude the issuance of the permit.

U.S. EPA response: Oregon does not indicate what violations it bases the comment on. The U.S. EPA last determined violations of federal requirements in 1999 and they were resolved. ESOI's compliance history does not preclude the issuance of the permit.

10. The commentor stated that the Part A for ESOI is incorrect and not in accordance with the law, but did not specify the incorrect information or the law.

U.S. EPA response: Oregon did not specify what information or lack thereof renders the part A incorrect and not in accordance with the requirements for a valid permit.

11. The commentor stated the draft permit is not in accordance with law and regulations, is unreasonable, and is not in accordance with the facts.

U.S. EPA response: Oregon offers no specifics that the draft permit is not in accordance with the facts. The U.S. EPA disagrees with the commentor.

DETERMINATION

Based on a full review of all relevant data provided to the U.S. EPA, the U.S. EPA has determined that the final RCRA permit with the revisions stated above to be issued to ESOI contains such terms and conditions as are necessary to protect human health and the environment.