

Response to Comments

Final Permit Decision

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY DRAFT PERMIT FOR CORRECTIVE ACTION

Washington Research Center, Columbia, Maryland 21044
EPA ID No. MDD074933961

Draft Permit Comment Period – November 30, 2017 - January 14, 2018

This Response to Comments is prepared by The United States Environmental Protection Agency Region III, Land and Chemical Division in accordance with the requirements of 40 C.F.R. Part 124, Procedures for Decision Making.

Written comments regarding the Draft Permit and Statement of Basis were received from the following during the public notice comment period:

Mr. Paul Bucens
Project Manager
Environment, Health and Safety
W.R. Grace & Co. - Conn
7500 Grace Drive
Columbia, MD 21044
paul.g.bucens@grace.com
Correspondence dated January 12, 2018

Comments on the Draft Permit for Corrective Action:

- **Comment #1:** First Page, 1st Paragraph: Grace suggests revising the last sentence, for clarity to “A map depicting the Facility location and key features, including the limit of land subject to this Draft Permit, is provided as Attachment A.”
EPA Response: This comment is incorporated in the Final Permit with modification. EPA agrees to the revision but selects the term “facility boundary” in lieu of “limit of land”. The last sentence in Paragraph One, Page One, in the Final Permit is revised to “A map depicting the Facility location and key features, including the Facility boundary subject to this Final Permit, is provided as Attachment A.”
- **Comment #2:** Introduction, 1st Paragraph: Grace suggests revising this paragraph, for clarity, by adding the following sentence to the end of the paragraph: “Attachment A is a map depicting the Facility location and key features, including the limit of land subject to this Permit.”

EPA Response: This comment is not incorporated in the Final Permit.

EPA does not agree to the revision because it is redundant with Comment #1. Attachment A is cited in the First Paragraph of Page One.

- **Comment #3:** Part I, Section B, Clause 13 a through c: Grace suggests modifying the formatting of spacing/alignment of the text to match that of 13 d. through j.

EPA Response: This comment is incorporated in the Final Permit without modification.

- **Comment #4:** Part I, Section B, Clause 13 j.: Grace suggests that the timeframes for notification of permit application errors and submittal of correct or additional information be revised from 7 and 14 days to 30 and 30 days, respectively. No timeframe is specified at 40 C.F.R. § 270.30(I)(11).

EPA Response: This comment is incorporated in the Final Permit with modification.

It is correct that no timeframe is specified at 40 C.F.R. § 270.30(I)(11), “Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall *promptly* submit such facts or information.” EPA considers notification of failure within 7 days of becoming aware of such deficiency or inaccuracy is prompt and appropriate. It shall remain in the Final Permit. However, EPA will revise the timeframe for the Permittee to submit the correct or additional information to the Regional Administrator from “fourteen (14)” to “thirty (30)” days of becoming aware of the deficiency or inaccuracy.

- **Comment #5:** Part I, Section I: This section, addressing the duty to sign/certify submittals pursuant to 40 C.F.R. 270, has already been incorporated at Part I, Section B, Clause 9.c. of the Permit. The two references are not in conflict, but they are redundant. Grace suggests deletion of Part I, Section I of the Permit.

EPA Response: This comment is incorporated in the Final Permit with modification.

Part I, Section I in the Draft Permit has been deleted to remove the redundancy. In addition, Part I, Section B, Clause 9.c., is revised to state: “All applications, reports or other information submitted to EPA shall be signed and certified as described in 40 C.F.R. §§ 270.11 and 270.30(k).” This sentence is added to ensure that all applications, reports or other information submitted to EPA are compliant with 40 C.F.R. §§ 270.11 and 270.30(k), not just submissions to the Regional Administrator.

- **Comment #6:** Part II, Section B, Clause 1: Grace suggests revising the last half of the paragraph to reflect the rationale for extraction well shutdown and overall conclusions from the shutdown test. Groundwater standards have not yet been reached and monitoring is to continue until they have been achieved as noted in the final paragraph of Section II of the Statement of Basis and the 2017 Sampling and Reporting Plan (included as Attachment B of the permit). Specifically, Grace suggests revising the text to “Subsequently in 2014, EPA approved the temporary (eighteen (18) month) shutdown of the groundwater recovery and treatment system to assess changes in site groundwater conditions from discontinuing groundwater extraction/treatment at the Main Site based on the progress of the remediation undertaken as part of the RCRA Corrective Action. The temporary shutdown also allowed evaluation of the appropriateness of transitioning to a monitoring only program. Data

collected during the eighteen (18) month monitoring period demonstrated that monitoring only is an appropriate remedy for the Main Site and the operation of the pump and treat system in this area is no longer warranted.”

EPA Response: This comment is incorporated in the Final Permit with modification.

Section 3005(c)(3) of RCRA provides EPA the authority to review and amend the Final Permit at any time, irrespective of whether the corrective actions in the Final Permit were based on the results of the Interim Monitoring Plan, which included an eighteen (18) month monitoring period. Therefore, the text at Part II, Section B, Clause 1 shall be revised to support this authority: “Subsequently in 2014, EPA approved the temporary (eighteen (18) month) shutdown of the groundwater recovery and treatment system as part of the Interim Monitoring Plan to assess changes in site groundwater conditions during the discontinuation of the groundwater extraction/treatment at the Facility. The temporary shutdown also allowed evaluation of the appropriateness of transitioning to a monitoring only program. Data collected during the eighteen (18) month Interim Monitoring Plan demonstrated that monitoring only may be an appropriate remedy for the Facility and the operation of the pump and treat system in this area may no longer be warranted.”

- **Comment #7:** Part II, Section B, Clause 2.a.: Grace suggests revising the paragraph to remove reference to prior attainment of cleanup standards as the basis of remedy transition to monitoring only. Rather monitoring is expressly required until cleanup standards are met as noted in the final paragraph of Section II of the Statement of Basis and the 2017 Sampling and Reporting Plan (included as Attachment B of the permit). Specifically, EPA should revise the text to “The Permittee shall continue to implement a Facility-wide groundwater monitoring program in accordance with the Sampling and Reporting Plan, approved by EPA on February 13, 2017 and included herein as Attachment B.”

EPA Response: This comment is incorporated in the Final Permit without modification.

- **Comment #8:** Part II, Section B, Clause 2.a.: For clarity, Grace suggests further revisions to define the endpoint of the monitoring program. Specifically, Grace suggests adding the following sentence to the end of the paragraph: “Monitoring shall be terminated after two consecutive sampling rounds demonstrate that Groundwater Cleanup Standards have been achieved.”

EPA Response: This comment is not incorporated in the Final Permit.

Two sampling rounds is not enough data to evaluate trends. However, EPA shall add the following sentence to Part II, Section B, Clause 2.a. of the Final Permit, “The Permittee may propose in writing to terminate or modify the Facility-wide groundwater monitoring program if sampling rounds show that Groundwater Cleanup Standards have been achieved.”

- **Comment #9:** Part II, Section C, Clause 3: Grace suggests that the timeframe for provision of financial assurance consistent with an updated cost estimate be revised from thirty (30) to one hundred and twenty (120) days, as the coordination of financial assurance providers can be a time-consuming process, depending on the form of financial assurance being sought, the type of providers of such financial assurance, and any required internal review by such providers and U.S. EPA before financial assurance can be issued and approved.

EPA Response: This comment is not incorporated in the Final Permit.

Thirty (30) days is the standard timeframe to seek approval of any revised cost estimate. However, EPA shall revise the sentence at Part II, Section C, Clause 3 of the Final Permit to “Within thirty (30) calendar days of approval of any revised cost estimate and the draft financial assurance instruments, the Permittee shall demonstrate to EPA financial assurance for the updated cost estimates.” With this revision, the thirty (30) calendar days timeframe commences after EPA approves the draft financial assurance documents in addition to the revised cost estimate. This allows the permittee to begin coordination with the financial assurance providers prior to the (30) calendar days timeframe.

- **Comment #10:** Part II, Section D, Clause 2: Grace requests that this clause be deleted in its entirety as it is not relevant to remediation activities at this site – which is the subject of the proposed permit. In addition, there appears to be no similar permit term in 40 C.F.R. § 270.30 to 33 regarding RCRA Permit Conditions applicable to this site and the conditions therein.

EPA Response: This comment is incorporated in the Final Permit.

Additional Permit Revisions:

EPA made a few administrative revisions to the Draft Permit that was not in response to any comments from the Permittee or the public, but was based upon further editing of the Drafts. These revisions have been made to reflect issuance of the Final Permit and results of the forty-five (45) day public comment period.

Final Permit:

This Permit is effective thirty days after service and shall remain in effect until the same day in 2028 unless revoked and reissued, modified or terminated in accordance with 40 C.F.R. § 270.41.

Enclosure:

1. Letter from Paul Bucens, W.R. Grace & Co. – Conn, Dated January 12, 2018



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January 12, 2018

Ms. Catherine McGoldrick, Project Manager
U.S. EPA Region III
Office of Remediation (3LC20)
1650 Arch Street
Philadelphia, PA 19103-2029

Transmitted via E-mail: mcgoldrick.catherine@epa.gov

**RE: RCRA Draft Permit – Grace Comments
W.R. Grace & Co.-Conn., Columbia, MD
RCRA Permit No. MDD 074933961**

Dear Ms. McGoldrick:

This letter provides specific comments from W. R. Grace & Co.-Conn. (Grace) on the draft Statement of Basis and Draft Permit for Corrective Action received from U.S. EPA on November 30, 2017 for the above referenced site.

Comments on the Statement of Basis Draft Permit for Corrective Action:

- 1) Section II, Facility Background, 1st Paragraph: Grace suggests revising the second sentence to reflect the current land area within the RCRA property boundary (ca. 62 acres). The Grace owned property is about 108 acres and the RCRA Boundary (the land constituting the "Facility" from the RCRA Permit perspective) encompasses about 62 acres - both areas reflect the sale of the development parcel on the west/north as indicated in Attachment A-2015 of the existing permit (and Attachment A of the draft) and is referenced as such in the 2017 Sampling and Reporting Plan (included as Attachment B of the draft permit). Specifically, Grace suggests revising the sentence from "The Facility consists of approximately 125 acres, including landscaped grassy areas; office, research and support buildings; two ponds, and wooded areas." to "The Facility consists of approximately 62 acres, including landscaped grassy areas; office, research and support buildings; two ponds, and wooded areas."
- 2) Section II, Facility Background, 3rd Paragraph: Grace suggests revising the last sentence to reflect the historic change in supply well status to remediation well. Specifically, Grace suggests revising the sentence from "Those wells were subsequently shut down and the Facility is now supplied with public water." to "Those wells were subsequently converted to groundwater remediation pumping wells and the Facility is now supplied with public water."
- 3) Section II, Facility Background, 6th Paragraph: Grace suggests revising the last half of the paragraph to reflect the rationale for shutdown extraction well shutdown and overall conclusions from the shutdown test. Groundwater standards have not yet been reached and monitoring will continue until they have been achieved, as noted in the final paragraph of Section II of the Statement of Basis and at Page 3 of the 2017 Sampling and Reporting Plan (included as Attachment B of the draft permit). Specifically, Grace suggests revising the text from:
"In April 2014 EPA approved the temporary shutdown of the groundwater recovery and treatment system to determine if groundwater had met the Groundwater Cleanup Standards selected in the FDRTC. Data collected during the shutdown demonstrates that Groundwater Cleanup Standards had been attained."

to:

"In April 2014 EPA approved the temporary (eighteen (18) month) shutdown of the groundwater recovery and treatment system to assess changes in site groundwater conditions from discontinuing groundwater extraction/treatment at the Main Site Area based on the progress of the remediation undertaken as part of the RCRA Corrective Action. The temporary shutdown also allowed evaluation of the appropriateness of transitioning to a monitoring only program. Data collected during the eighteen (18) month monitoring period demonstrated that monitoring only is an appropriate remedy for the Main Site Area and the operation of the pump and treat system in this area is no longer warranted."

- 4) Section II, Facility Background, Last Paragraph: Grace suggests revising the last sentence to correct the reference to the document establishing Grace's obligation to maintain financial assurance related to the corrective action. Specifically, from "The Permittee shall also maintain assurances of financial responsibility, initially established under the Original Permit, for completing the Final Remedy under this Permit as required by Section 3004(u) of RCRA, 42 U.S.C. § 6924(u)." to "The Permittee shall also maintain assurances of financial responsibility, initially established under the First Permit Modification, for completing the Final Remedy under this Permit as required by Section 3004(u) of RCRA, 42 U.S.C. § 6924(u)."

Comments on the Draft Permit for Corrective Action:

- 1) First Page, 1st Paragraph: Grace suggests revising the last sentence, for clarity, from "A map depicting the Facility location and key features, including the limit of land subject to this Draft Permit, is provided as Attachment A." to "A map depicting the Facility location and key features, including the limit of land subject to this Draft Permit, is provided as Attachment A."
- 2) Introduction, 1st Paragraph: Grace suggests revising this paragraph, for clarity, by adding the following sentence to the end of the paragraph: "Attachment A is a map depicting the Facility location and key features, including the limit of land subject to this Permit."
- 3) Part I, Section B, Clause 13 a. through c.: Grace suggests modifying the formatting of spacing/alignment of the text to match that of 13 d. through j.
- 4) Part I, Section B, Clause 13 j.: Grace suggests that the timeframes for notification of permit application errors and submittal of correct or additional information be revised from 7 and 14 days to 30 and 30 days, respectively. No timeframe is specified at 40 CFR 270.30(l)(11).
- 5) Part I, Section I: This section, addressing the duty to sign/certify submittals pursuant to 40 CFR 270, has already been incorporated at Part I, Section B, Clause 9.c. of the Permit. The two references are not in conflict, but they are redundant. Grace suggests deletion of Part I, Section I of the Permit.
- 6) Part II, Section B, Clause 1: Grace suggests revising the last half of the paragraph to reflect the rationale for extraction well shutdown and overall conclusions from the shutdown test. Groundwater standards have not yet been reached and monitoring is to continue until they have been achieved as noted in the final paragraph of Section II of the Statement of Basis and the 2017 Sampling and Reporting Plan (included as Attachment B of the permit). Specifically, Grace suggests revising the text from:

"Subsequently in 2014, W.R. Grace conducted a shut-down test of the groundwater recovery and treatment system to evaluate whether the system had met its objective of attaining the Groundwater Cleanup Standards selected in the FDRTC. Data collected during the shutdown demonstrates that the Groundwater Cleanup Standards had been attained."

to:

"Subsequently in 2014, EPA approved the temporary (eighteen (18) month) shutdown of the groundwater recovery and treatment system to assess changes in site groundwater conditions from discontinuing groundwater extraction/treatment at the Main Site based on the progress of the remediation undertaken as part of the RCRA Corrective Action. The temporary shutdown also allowed evaluation of the appropriateness of transitioning to a monitoring only program. Data collected during the eighteen (18) month monitoring period demonstrated that monitoring only is an appropriate remedy for the Main Site and the operation of the pump and treat system in this area is no longer warranted."

- 7) Part II, Section B, Clause 2.a.: Grace suggests revising the paragraph to remove reference to prior attainment of cleanup standards as the basis of remedy transition to monitoring only. Rather

monitoring is expressly required until cleanup standards are met as noted in the final paragraph of Section II of the Statement of Basis and the 2017 Sampling and Reporting Plan (included as Attachment B of the permit). Specifically, EPA should revise the text from:

“The Permittee shall continue to implement a Facility-wide groundwater monitoring program in accordance with the Sampling and Reporting Plan, approved by EPA on February 13, 2017 and included herein as Attachment B in order to demonstrate whether the Groundwater Cleanup Standards continue to be achieved.”

to:

“The Permittee shall continue to implement a Facility-wide groundwater monitoring program in accordance with the Sampling and Reporting Plan, approved by EPA on February 13, 2017 and included herein as Attachment B.”

- 8) Part II, Section B, Clause 2.a.: For clarity, Grace suggests further revisions to define the endpoint of the monitoring program. Specifically, Grace suggests adding the following sentence to the end of the paragraph: “Monitoring shall be terminated after two consecutive sampling rounds demonstrate that Groundwater Cleanup Standards have been achieved.”
- 9) Part II, Section C, Clause 3.: Grace suggests that the timeframe for provision of financial assurance consistent with an updated cost estimate be revised from thirty (30) to one hundred and twenty (120) days, as the coordination of financial assurance providers can be a time-consuming process, depending on the form of financial assurance being sought, the type of providers of such financial assurance, and any required internal review by such providers and U.S. EPA before financial assurance can be issued and approved.
- 10) Part II, Section D, Clause 2.: Grace requests that this clause be deleted in its entirety as it is not relevant to remediation activities at this site – which is the subject of the proposed permit. In addition, there appears to be no similar permit term in 40 CFR 270.30 to 33 regarding RCRA Permit Conditions applicable to this site and the conditions therein.

Please do not hesitate to call (617 899 0354) or e-mail (paul.g.bucens@grace.com) me if you have any questions related to this transmittal.

Sincerely,



Paul Bucens, P.E.
Project Manager

cc: H. Feichko, Grace Legal
B. Welbourn, Grace
L. Massey, Grace

