



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

1595 Wynkoop Street
DENVER, CO 80202-1129
Phone 800-227-8917
<http://www.epa.gov/region08>

Ref: 8ENF-AT

'APR 29 2009

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Allied Waste Systems of Colorado, LLC
Registered Agent
1675 Broadway, Suite 1200
Denver, CO 80202

Mr. Kory Coleman
Allied Waste Systems of Colorado, LLC
8480 Tower Road
Commerce City, Colorado, 80022

Re: Order for Compliance Under Section
113(a)(3)(B) of the Clean Air Act, 42
U.S.C. § 7413(a)(3)(B), and
Administrative Complaint Under
Section 113(d)(1)(B) of the Act, 42
U.S.C. § 7413(d)(1)(B)

Dear Mr. Coleman:

Enclosed is a United States Environmental Protection Agency Region 8 (EPA) Order for Compliance, and Administrative Complaint assessing a proposed administrative penalty in the amount of \$38,685, issued to Allied Waste Systems of Colorado, LLC, for alleged violations of Allied Waste's operations at the Tower Road Landfill. The Order and the Complaint specify the nature of the violations under the Clean Air Act, 42 U.S.C. § 7401, *et seq.* The authority for such actions is provided to EPA under section 113 of the Act, 42 U.S.C. § 7413.

If you have any questions regarding this letter, the enclosed Order and Complaint, or any other matters pertinent to Allied Waste's compliance with the Clean Air Act, the most knowledgeable people on my staff regarding these matters for legal and technical issues, respectively, are Linda Kato, Enforcement Attorney, at (303) 312-6852, and Emilio Llamozas, Air Toxics Technical and Enforcement Program, at (303) 312-6407.

Sincerely,


Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosures

cc: Bob Jorgenson, CDPHE

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

2009 APR 29 AM 8:55

IN THE MATTER OF: Allied Waste Systems of Colorado, LLC 8480 Tower Road Commerce City, Colorado 80022 Respondent	COMPLIANCE ORDER Section 113(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7413(a)(3)(B) Docket No. CAA-08-2009-0015
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STATUTORY AUTHORITY

1. This compliance order (Order) is issued by the United States Environmental Protection Agency, Region 8, pursuant to Section 113(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. § 7413(a)(3)(B), authorizing the Administrator of EPA to order compliance with Sections 111 and 112 of the Act, 42 U.S.C. §§ 7411 and 7412. The authority to issue this Order has been properly delegated to the undersigned EPA official.
2. Consistent with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), a copy of this Order has been sent to the Colorado Department of Public Health and the Environment.

STATUTORY AND REGULATORY FRAMEWORK

New Source Performance Standards
Section 111 of the CAA, 42 U.S.C. § 7411

3. Pursuant to Section 111(b)(1)(A), EPA is required to publish a list of categories of stationary sources if, in its judgment, the sources cause or contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

4. Pursuant to Section 111(b)(1)(B), EPA is required to establish Federal standards of performance for new sources within such categories.
5. EPA has added “municipal solid waste landfills” (MSW landfills) as a source category subject to the requirements of Section 111 of the CAA because the source category contributes significantly to air pollution, including emissions of non-methane organic compounds (NMOC) and methane, which may reasonably be anticipated to endanger public health and welfare.
6. Performance standards for MSW landfills that commenced construction or modification after May 30, 1991, were promulgated by EPA at 40 C.F.R. Part 60, Subpart WWW.
7. A “municipal solid waste landfill” means an entire disposal facility in a contiguous geographical space where household waste is placed in or on land. 40 C.F.R. § 60.751. *See also* 40 C.F.R. § 63.1990.
8. “Modification” means an increase in the permitted volume design capacity of the landfill by either horizontal or vertical expansion based on its permitted design capacity as of May 30, 1991. 40 C.F.R. § 60.751.
9. “Design capacity” means the maximum amount of solid waste a landfill can accept, as indicated in terms of volume or mass in the most recent permit issued by State, local, or Tribal agency responsible for regulating the landfill, plus any in-place waste not accounted for in the most recent permit. 40 C.F.R. § 60.751.
10. Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters is subject to standards for air

emissions, including requirements for monitoring, collection and control of air emissions.

40 C.F.R. § 60.752(b).

11. Landfills must operate the collection system so that the methane concentration is less than 500 parts per million above background at the surface of the landfill. To determine if this level is exceeded, the owner or operator shall conduct surface testing around the perimeter of the collection area and along a pattern that traverses the landfill at 30 meter intervals and where visual observations indicated elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover. 40 C.F.R. § 60.753(d).
12. The landfill cover is subject to EPA Reference Method 21 Leak Detection and Repair monitoring (40 C.F.R. Part 60, Appendix A). *See* 40 C.F.R. § 60.753(d), 40 C.F.R. § 60.755(c), 40 C.F.R. § 60.755(d), and 40 C.F.R. § 60.757(f)(5).
13. 40 C.F.R. § 60.755(c) requires that monitoring performed pursuant to Subpart WWW comply with Section 8.3.1 of EPA Reference Method 21, Leak Detection and Repair Monitoring, except that the probe inlet shall be placed within 5 (five) to 10 (ten) centimeters off the ground. 40 C.F.R. Part 60 Appendix A.
14. Section 8.3.1 of EPA Reference Method 21 instructs:

“Place the probe inlet at the surface of the component interface where leakage could occur. Move the probe along the interface periphery while observing the instrument readout. If an increased meter reading is observed, slowly sample the interface where leakage is indicated until the maximum meter reading is obtained. Leave the probe inlet at this maximum reading location for approximately two times the instrument response time. If the maximum observed meter reading is greater than the leak definition in the applicable regulation, record and report the results as specified in the regulation reporting requirements.”

National Emission Standards for Hazardous Air Pollutants
Section 112 of the CAA, 42 U.S.C. § 7412

15. Pursuant to Section 112(c)(1), EPA is required to publish a list of all categories and subcategories of major sources and area sources of Hazardous Air Pollutants (HAPs). To the extent practicable, the categories and subcategories listed shall be consistent with the list of source categories established pursuant to Section 111, 42 U.S.C. § 7411.
16. Pursuant to Section 112(a)(1), a “major source” means any stationary source that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of HAPs.
17. Pursuant to Section 112(a)(2), an “area source” means any stationary source of HAPs that is not a major source.
18. HAPs emitted by MSW landfills include, but are not limited to, vinyl chloride, ethyl benzene, toluene, and benzene.
19. EPA has added MSW landfills as a category subject to the requirements of Section 112 of the CAA.
20. Section 112(d) of the CAA, 42 U.S.C. § 7412(d) requires EPA to establish emissions standards and methods for each category or subcategory of major sources and area sources of HAPs.
21. The emission standards and methods for MSW landfills, known as “Maximum Achievable Control Technology” (MACT) standards, have been promulgated by EPA at 40 C.F.R. Part 63, Subpart AAAAA.

22. In relevant part, the MACT standards apply to a MSW landfill that has accepted waste since November 8, 1987, and is an area source that has a design capacity equal to or greater than 2.5 million megagrams (Mg) and 2.5 million cubic meters (m³) and has an estimated uncontrolled emissions equal to or greater than 50 megagrams per year (Mg/yr) nonmethane organic compound (NMOC) as calculated according to § 60.754(a) of the MSW landfills new source performance standards in 40 C.F.R. Part 60, Subpart WWW. 40 C.F.R. § 63.1935(a)(3).
23. Pursuant to 40 C.F.R. § 63.1955(b), a MSW landfill that is required by 40 C.F.R. § 60.752(b)(3) to install a collection and control system must comply with the requirements of 40 C.F.R. §§ 63.1960 through 63.1985.
24. Pursuant to 40 C.F.R. § 63.1960, compliance is determined in the same way it is determined for 40 C.F.R. Part 60, Subpart WWW, including performance testing, monitoring of the collection system, continuous parameter monitoring, and other credible evidence.

FINDINGS OF FACT

The Allied Waste Tower Road Landfill

25. Respondent Allied Waste Systems of Colorado, LLC, incorporated in Colorado and authorized to do business in the State of Colorado, is a “person” as defined in Section 7602(e) of the CAA, 42 U.S.C. § 7602(e).
26. At times relevant to this order and currently, Respondent has owned and/or operated the Tower Road Landfill located at 8480 Tower Road, Commerce City, CO 80022.

27. The Tower Road Landfill is a MSW landfill and hence subject to Sections 111 and 112 of the CAA, 42 U.S.C. §§ 7411 and 7412.
28. In June 1981, the State of Colorado issued a construction permit for a landfill at this location to Tower Disposal. In November 1982, the permit was transferred to Landfill, Inc., and a modified permit was issued in 1987. Landfill, Inc. later became Browning-Ferris Industries (BFI). The landfill was issued an operating permit on February 1, 2001, and the permit was renewed in September 1, 2005, and revised on June 1, 2008, to reflect the company name change to Allied Waste, as well as updated emission factors and limits.
29. In December 1998, the facility submitted an initial design capacity report stating the landfill had a capacity of 17,700,00 megagrams, and reported NMOC emissions of 630.57 megagrams per year. Subsequently, the design capacity of the landfill was increased to approximately 21,040,000 megagrams.
30. The Tower Road Landfill is a MSW landfill with a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and has estimated uncontrolled NMOC emissions equal to or greater than 50 megagrams per year.
31. The Tower Road Landfill commenced a “modification” within the meaning of 40 C.F.R. § 60.751 after May 30, 1991, and hence is subject to the New Source Performance Standards promulgated by EPA at 40 C.F.R. Part 60, Subpart WWW.
32. In addition, the Tower Road Landfill has accepted waste since November 8, 1987, and is an area source that has a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters and has an estimated uncontrolled emissions equal to or

greater than 50 megagrams per year (Mg/yr) nonmethane organic compound (NMOC) as calculated according to § 60.754(a) of the MSW landfills new source performance standards in 40 C.F.R. Part 60, Subpart WWW. The Tower Road Landfill is hence subject to the NESHAP MACT standards promulgated by EPA at 40 C.F.R. Part 63, Subpart AAAA.

33. Respondent has implemented a Subpart WWW “leak detection and repair” (LDAR) monitoring program at the landfill.
34. Pursuant to the NSPS and NESHAP standards, Respondent was required to conduct LDAR monitoring of the landfill cover following the requirements of 40 C.F.R. § 60.753(d) and EPA Reference Method 21.
35. In the last five years of quarterly surface emissions monitoring, consisting of twenty monitoring events, Respondent has found a total of three exceedance leaks (one leak during a February 28, 2006 monitoring event and two leaks during a May 6, 2008 monitoring event) or an average of 0.15 leaks per monitoring event.

The EPA Inspection

36. EPA inspected the Tower Road Landfill on August 14, 2008. During the inspection, EPA conducted LDAR monitoring, applying EPA Reference Method 21, while following approximately half of the surface emissions monitoring route used by Respondent to perform its quarterly monitoring.
37. During the inspection, EPA detected five leaks of methane exceeding 500 ppm from the portion of the Tower Road Landfill that it inspected. The leaks demonstrated that the

collection system was not being operated to ensure that the methane concentration is less than 500 ppm above background as required under 40 C.F.R. § 60.753(d).

38. EPA detected two of the leaks from white marker pipes that were inserted vertically into the ground and were allowing methane to escape through the cover. Two other leaks were detected from cracks in the ground, and one leak was detected from a hole in the ground.
39. The pipe openings, cracks, and hole in the ground were clearly visible. Cracks and seeps must be monitored for emissions pursuant to 40 C.F.R. § 60.753(d).

VIOLATIONS

Count I

40. Respondent failed to properly monitor the Tower Road Landfill cover in accordance with EPA Reference Method 21 during previous LDAR monitoring events and failed to find the maximum leaks where visual observations indicated possible elevated concentrations of landfill gas, such as distressed vegetation and cracks or seeps in the cover, in violation of NSPS and NESHAP regulations, 40 C.F.R. §§ 60.753(d), 60.755(c), 60.755(d), 60.757(f)(5), 63.4(a)(1), and 63.1960.

COMPLIANCE ORDER

41. Pursuant to Section 113(a)(3)(B) of the CAA, 42 U.S.C. § 7413(a)(3)(B), and upon the basis of available information, EPA hereby issues the following order:

42. Effective immediately, Respondent shall comply with all the requirements of the New Source Performance Standards, 40 C.F.R. Part 60, Subpart WWW, and all the requirements of the National Emissions Standards for Hazardous Air Pollutants, 40 C.F.R. Part 63, subparts A and AAAA.
43. Respondent shall evaluate its LDAR monitoring program to ensure that it complies with all applicable regulations and EPA Reference Method 21, and take measures to ensure that its monitoring program is properly administered.
44. Respondent shall cap or remove all open ended marker pipes that could emit landfill gas into the atmosphere.
45. Respondent shall perform landfill cover maintenance in areas where leaks were detected during the August 14, 2008 EPA inspection.
46. Within ten days of receipt of this Order, Respondent shall give written notice to EPA of its intent to comply with the requirements of this Order.
47. Within thirty calendar days of the effective date of this Order, Respondent shall provide to EPA a written report describing actions taken to comply with this order.
48. All notices and reports required by the Order to be given to EPA shall be sent to:

Emilio Llamozas
U.S. EPA Region 8
1595 Wynkoop Street
Denver, CO 80202
llamozas.emilio@epa.gov
Fax: (303) 312-7202
Phone: (303) 312-6407

49. All reports and information required by this Order shall include the following certification statement, to be signed and dated by an individual who meets the definition

of “owner or operator” of the source as defined under Section 112(a)(9) of the CAA, 42

U.S.C. § 7412(a)(9):

I hereby certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations.

ENFORCEMENT

50. Issuance of this Order does not preclude any other action by EPA to redress past or future violations of the CAA, including either of the following:
- a. A civil judicial action pursuant to Section 113(b) of the CAA, 42 U.S.C. § 7413(b), for injunctive relief or civil penalties of not more than \$27,500 per day for each violation occurring from January 31, 1997 through and including March 15, 2004; and \$32,500 per day for each violation after March 15, 2004, but before January 12, 2009; and \$37,500 per day for each violation after January 12, 2009;
or
 - b. An administrative penalty complaint pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for penalties of not more than \$27,500 per day for each violation occurring from January 31, 1997 through and including March 15, 2004; and \$32,500 per day for each violation after March 15, 2004, but before January 12, 2009; and \$37,500 per day for each violation after January 12, 2009.

51. Pursuant to Section 306(a) of the CAA, 42 U.S.C. § 7606(a), the regulations promulgated thereunder at 40 C.F.R. Part 15, and Executive Order 11738, facilities to be utilized in federal contracts, grants, or loans must be in full compliance with the CAA and all regulations promulgated thereunder. Violation of the CAA may result in the facility being declared ineligible for participation in any federal contract, grant, or loan.
52. Pursuant to Section 113 of the CAA, 42 U.S.C. § 7413, Respondent's failure to comply with this Order may lead to a civil action to obtain compliance or an action for civil or criminal penalties.

OPPORTUNITY FOR CONFERENCE

53. In accordance with Section 113(a)(4) of the CAA, 42 U.S.C. § 7413(a)(4), EPA is offering the Respondent an opportunity for a conference to confer concerning the alleged violation. The request for such a conference must be made no later than thirty (30) calendar days from the date of Respondent's receipt of this Order. If you wish to make arrangements for a conference, please contact Linda Kato, Senior Enforcement Attorney, U.S. EPA Region 8, 1595 Wynkoop Street, Denver, 80202-1129. Ms. Kato's telephone number is (303) 312-6852. By offering the opportunity for a conference, EPA does not waive or limit its right to any remedy available under the CAA.

EFFECTIVE DATE

54. This Order shall become effective thirty (30) calendar days after Respondent's receipt the Order unless Respondent requests an opportunity to confer with EPA, in which case the Order shall become effective on the third business day after the conference unless EPA issues a modification to the Order.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Date: 28 April 2009

By: Sharon Z Kercher
Andrew M. Gaydosh
Assistant Regional Administrator
Office of Enforcement, Compliance and
Environmental Justice

In the matter of:
Allied Waste Systems of Colorado, LLC
Docket No. CAA-08-2009- 0015

CERTIFICATE OF SERVICE

I certify that on the date noted below, I sent by certified mail, return receipt requested, a copy of the foregoing ORDER FOR COMPLIANCE to:

Allied Waste Systems of Colorado, LLC
Registered Agent
1675 Broadway, Suite 1200
Denver, CO 80202

by first class mail to:

Mr. Kory Coleman
Allied Waste Systems of Colorado, LLC
8480 Tower Road
Commerce City, Colorado, 80022

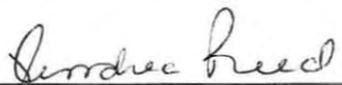
and by first class mail to:

Bob Jorgenson
Unit Supervisor
Colorado Department of Public Health and Environment
Mail Code APCD-SS-B1
4300 Cherry Creek Drive South
Denver, CO 80246-1530

The original and one copy of the foregoing ORDER FOR COMPLIANCE were hand-delivered to:

Tina Artemis
Regional Hearing Clerk
U.S. Environmental Protection Agency
1595 Wynkoop Street (8RC)
Denver, CO 80202

Date: 4/29/09



Andrea Reed