



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 24 2012

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Doug Harris
General Manager
Veolia Environmental Services
#7 Mobile Avenue
Sauget, Illinois 62201

Re: Finding of Violation of Clean Air Act
Veolia Environmental Services
Sauget, Illinois

Dear Mr. Harris:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to Veolia Environmental Services (you). We find that you are violating Sections 112 and 114 of the Clean Air Act (CAA), 42 U.S.C. §§ 7412 and 7414, at your Sauget, Illinois facility.

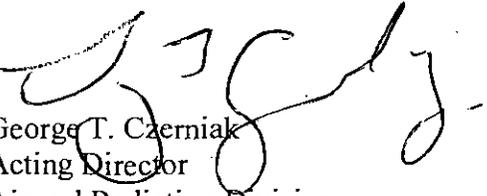
We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you the opportunity to present information on the specific findings of violation, the efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contacts in this matter are Sarah Marshall and Nathan Frank. You may call Ms. Marshall or Mr. Frank at 312.886.6797 and 312.886.3850, respectively, to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



George T. Czerniak
Acting Director
Air and Radiation Division

cc: Ray Pilapil, Manager
Compliance and Systems Management Section
Illinois Environmental Protection Agency

Joseph M. Kellmeyer

6. The HWC MACT final standards at 40 C.F.R. Part 63, Subpart EEE became effective on October 14, 2008. (70 Fed. Reg. 59402).

7. The HWC MACT applies to hazardous waste incinerators (HW incinerators). 40 C.F.R. § 63.1200.

8. The HWC MACT, at 40 C.F.R. § 63.1206(a)(1)(ii), requires existing HW incinerators to comply with emission standards provided under 40 C.F.R. § 63.1219, including the standard for mercury, by no later than October 14, 2008.

9. The HWC MACT, at 40 C.F.R. § 63.1219(a)(2), prohibits HW incinerators from emitting into the atmosphere mercury in excess of 130 ug/dscm, corrected to 7% oxygen.

10. The HWC MACT, at 40 C.F.R. § 63.1206(c), provides operating requirements for HW incinerators and states that failure to comply with the operating requirements is failure to ensure compliance with the emission standard, including the mercury standard in 40 C.F.R. § 63.1219(a)(2).

11. The HWC MACT, at 40 C.F.R. § 63.1207(b)(1), requires HW incinerators to conduct a comprehensive performance test (CPT) to demonstrate compliance with the emission standards and establish operating parameter limitations (OPLs) that ensure compliance with emission standards, including the mercury standard in 40 C.F.R. § 63.1219(a)(2).

12. The HWC MACT, at 40 C.F.R. § 63.1211(c), requires HW incinerators to develop and include in the operating record at the facility a Document of Compliance (DOC) by the compliance date of the regulations. The DOC identifies the applicable emission standards and the OPLs under § 63.1209 that will ensure compliance with those emission standards. When the DOC is included in the operating record, a source is no longer subject to the previously applicable Notice of Compliance (NOC) that documented compliance with, and established OPLs for, the interim HWC MACT emission standards.

13. The HWC MACT, at 40 C.F.R. § 63.1211(c)(3), requires HW incinerators to include a signed and dated certification in the DOC that, based on an engineering evaluation prepared under the source's direction or supervision in accordance with a system designed to *ensure that qualified personnel properly gathered and evaluated the information and supporting documentation*, and considering at a minimum the design, operation, and maintenance characteristics of the combustor and emissions control equipment, the types, quantities, and characteristics of feedstreams, and available emissions data:

- a. the HW incinerator is in compliance with the emission standards of the HWC MACT and
- b. the limits on the operating parameters under § 63.1209 ensure compliance with the emission standards of the HWC MACT (emphasis added).

14. The HWC MACT, at 40 C.F.R. § 63.1207(j)(1)(i), requires HW incinerators to submit a NOC within 90 days of completion of a CPT. The NOC must document compliance

with the emission standards and continuous monitoring system requirements, and identify OPLs under § 63.1209:

15. The HWC MACT, at 40 C.F.R. § 63.1207(j)(1)(ii), requires HW incinerators, upon postmark of the NOC, to comply with all operating requirements specified in the NOC in lieu of the limits specified in the DOC required under § 63.1211(c).

16. The HWC MACT, at 40 C.F.R. § 63.1206(c)(1)(i), requires that HW incinerators operate under the operating requirements specified in the applicable DOC under 40 C.F.R. § 63.1211(c) or NOC under 40 C.F.R. §§ 63.1207(j) and 63.1210(d).

17. The HWC MACT, at 40 C.F.R. § 63.1209(c)(1), requires that prior to feeding the material to the incinerator, HW incinerators must obtain an analysis of each feedstream that is sufficient to document compliance with the applicable feed rate limits. The applicable feed rate limits are OPLs for the HW incinerators.

18. The HWC MACT, at 40 C.F.R. § 63.1209(c)(2), requires HW incinerators to develop and implement a feedstream analysis plan (FAP) and record it in the operating record. The FAP must specify the frequency with which a source must review or repeat the initial analysis of the feedstream to ensure that the analysis is accurate and up to date.

19. The HWC MACT, at 40 C.F.R. § 63.1209(c)(4), states that to comply with applicable feed rate limits, HW incinerators must monitor and record feed rates by, among other requirements, determining and recording the value of the parameter for each feedstream by sampling and analysis or other method.

The Veolia HWC MACT Feedstream Analysis Plan:

20. Veolia's FAP, at Section 5.3, specifies that the procedure for determining concentrations of Arsenic, Beryllium, Cadmium, Chromium and Lead in samples is EPA SW-846 Method 6010C. EPA SW-846 Method 6010C is for the use of inductively coupled plasma-atomic emission spectrometry (ICP-AES).

21. EPA SW-846 Method 6010C Section 4.2.6 states that the interference effects must be evaluated for each individual instrument. This involves determining and documenting the effect of referenced interferences and any other suspected interference for each recommended wavelength. The method goes on to require that a computer routine be used for automatic correction on all analyses.

22. The FAP, at Section 6.0(3), requires that the analytical information for the feedstreams be re-evaluated on a frequency of five years since the last assessment of the feedstream.

CAA Enforcement Authority:

23. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), provides that whenever, on the basis of any information available to the Administrator, the Administrator finds that any

person has violated, or is in violation of, *inter alia*, Sections 112 or 114 of the CAA, the Administrator may issue an administrative penalty order, an order requiring compliance, or a civil or criminal action, as appropriate.

Finding of Fact

24. Veolia owns and operates three hazardous waste incinerators at #7 Mobile Avenue, Sauget, Illinois.

25. Veolia's incinerators are subject to the HWC MACT requirements at 40 C.F.R. Part 63, Subpart EEE.

Fact Related to Section 114 of the CAA Violation:

26. On March 10, 2010, EPA issued an Information Request under Section 114 of the CAA to Veolia instructing the HW incinerator to install and operate a mercury continuous emissions monitor (CEM) on each of its three incinerators, including a request that Veolia submit requests for proposals (RFPs) to mercury CEM vendors by March 26, 2010; provide copies of the RFPs to EPA by March 30, 2010; submit an Alternative Monitoring Plan covering the mercury CEMs to EPA by May 16, 2010; perform all of the required certification and calibration of the CEMs upon installation and operation; provide all CEMs data on a monthly basis for one year after certification; and provide appropriate waste analyses.

27. To date, Veolia has failed to provide to EPA any of the information, and take the actions, identified in Paragraph 26, above.

Facts Related to Emission Standard and Feed Rate OPL Violations:

28. Veolia conducted stack tests for MACT metals, including mercury, in August and September 2008 on Incinerators 2, 3, and 4. During the test, Veolia fed mercury into the incinerators in the form of waste and a pre-calibrated spike.

29. On October 10, 2008, based on the 2008 stack testing, Veolia submitted to EPA a NOC under the interim HWC MACT standards containing, in relevant part, the following feed rate OPLs for mercury (Hg):

Unit	Hg Feedrate/OPL lb/hour
2	0.0047
3	0.0047
4	0.031

30. Veolia calculated the OPLs for mercury in the October 10, 2008 NOC using an incorrect moisture content for the waste, resulting in higher than appropriate mercury feed rate OPLs.

31. Veolia filed a DOC under the final HWC MACT in its operating record at its Facility on October 14, 2008. The DOC contained, in relevant part, the following feed rate OPLs for mercury:

Unit	Hg Feedrate/OPL lb/hour
2	0.0034
3	0.0034
4	0.026

32. The OPLs specified in paragraph 31 above were based on the rate mercury was fed during the 2008 metals stack test with an updated, yet still incorrect, moisture content value that resulted in higher than appropriate mercury feed rate OPLs.

33. On March 16, 2010, after Veolia conducted its CPT in December 2009, Veolia submitted to EPA a NOC under the final HWC MACT standards containing, in relevant part, the following feed rate OPLs for mercury which were updated with the correct moisture content values:

Unit	Hg Feedrate/OPL lb/hour
2	0.0019
3	0.0019
4	0.026

34. EPA has determined that the 2008 metals stack test spike mercury concentration Veolia used to calculate the feed rate OPLs for mercury was incorrect, resulting in mercury feed rate OPLs that remained higher than appropriate.

35. The Facility is operating under a Title V permit issued by EPA on September 12, 2008. The Title V permit does not contain feed rate OPLs for mercury, semi-volatile metals (SVM), or low volatile metals (LVM), as required by the HWC MACT, because EPA did not have reliable data necessary to establish the appropriate OPLs for those hazardous wastes.

36. Between October 10, 2008 and May 31, 2009, Veolia operated Incinerator 2 above the appropriate mercury feed rate OPL necessary to ensure compliance with the HWC MACT mercury emission standard for at least 9,600 12-hour one-minute rolling averages.

37. Between October 10, 2008 and May 31, 2009, Veolia operated Incinerator 3 above the appropriate mercury feed rate OPL necessary to ensure compliance with the HWC MACT mercury emission standard for at least 11,500 12-hour one-minute rolling averages.

38. Between October 10, 2008 and May 31, 2009, Veolia operated Incinerator 4 above the appropriate mercury feed rate OPL necessary to ensure compliance with the HWC MACT mercury emission standard for at least 6,100 12-hour one-minute rolling averages.

Facts Related to Waste Analysis Violations:

39. In October 2008, Veolia developed a FAP as required by 40 C.F.R. § 63.1209(c)(2).

40. From December 5 through December 15, 2011, EPA's National Enforcement Investigations Center (NEIC) conducted a focused investigation of Veolia's compliance with the CAA and RCRA's waste analysis procedures.

41. As part of the investigation, NEIC did an in depth review of less than 1% of the waste profiles received by Veolia in 2011 and less than 1.5% of the waste volume received by Veolia in 2011. NEIC found that a high percentage of the profiles it reviewed were inaccurate. Therefore, EPA believes that a broader investigation would reveal that significantly more waste profiles at Veolia's facility are inaccurate.

42. Veolia used the toxicity characteristic leaching procedure (TCLP) concentrations instead of the total metals concentrations as the value of metals in a feedstream for at least two waste profiles, specifically 236152 and 691163. Veolia's practice underestimates the actual metals concentration in the waste stream.

43. NEIC inspectors found that Veolia used generic waste profiles for waste streams that contain volatile and semi-volatile metals, and assigns one metals concentration based on the generic waste profile rather than analyzing for metals each time the waste is received. For example:

- a. Profiles CI5789 and 660210 are both described as "cyanide containing wastes." While both profiles list cadmium cyanide as a possible constituent, Veolia uses a value of 6,470 mg/kg cadmium for profile C15789 and 1 mg/kg cadmium for profile 660210. Since these are very similar waste streams generated by different generators, Veolia should analyze these variable waste streams each time they arrive on site.
- b. Profile 374339 is organic debris, and the metals concentrations in the waste loads could vary greatly. Veolia should analyze these variable waste streams each time they arrive on site.
- c. Profile CARBN1 is a generic profile broadly used by Veolia that uses a standard concentration value for chromium of 139 mg/kg. One of the load receipts received on April 8, 2011, and sampled and analyzed on June 9, 2011, had an actual chromium concentration of 99,780 mg/kg. Standard profiles such as CARBN1, that have the potential to have significant variation in metals concentration, do not accurately estimate the metals concentration of the waste streams. Only 19 of the 330 total CARBN1 loads received in a 3-year period (June 2009 to June 2012) were sampled and analyzed for metals, and all of these loads were sampled after January 2011. The use of overly broad standard profiles leads to incorrect metals concentrations being used to calculate the feed rates for the HWC incinerators.

- d. Veolia used several profiles that use metals concentrations identical to those used in other profiles. This is statistically unlikely.

44. Veolia feeds incinerator ash from Incinerators 2 and 3 into Incinerator 4 prior to offsite disposal. NEIC inspectors found that Veolia analyzed this ash for metals only once in the last seven years. NEIC inspectors analyzed six grab samples of the ash from Incinerators 2 and 3. The results of the analysis show that the metals composition of the ash is highly variable.

45. NEIC inspectors identified the presence of conflicting metals data between the profile package and the information in the waste tracking system (WTS) and the incinerator control system (ICS) as follows:

- a. The profile package for Profile 236152 uses the material safety data sheet (MSDS) concentration of three to six percent chromium as chromium oxide (30,000 to 60,000 mg/kg). ICS uses a value of 228 mg/kg for chromium oxide.
- b. The profile package for Profile 691163 has a TCLP value for chromium of 1.8 mg/L, while ICS and WTS use a value of 0 mg/L.
- c. The profile package for Profile AF3753 has a total mercury value of 4,140 mg/kg and TLCP value of 37.8 mg/kg, but WTS and ICS used a value of 25 mg/kg for at least five years.

46. Veolia uses ICP-AES software for metals analysis. When unknown constituents are present in a sample, automatic background and overlap corrections result in large negative values. Veolia does not measure all major elements in samples to identify and correct potential negative interferences which could underestimate the metals concentrations. This results in inaccurate feedstream analysis.

Violations

47. To date, Veolia has failed to provide any of the information required by the March 10, 2010 Information Request in violation of Section 114 of the CAA.

48. Veolia failed to and continues to fail to ensure compliance with the HWC MACT mercury emission standard by failing to establish an appropriate mercury feed rate OPL in its October 10, 2008 NOC, October 14, 2008 DOC, and March 16, 2010 NOC in violation of the HWC MACT at 40 C.F.R. §§ 63.1206(a)(ii), 63.1206(c), 63.1207(b)(1), 63.1211(c), and 63.1207(j)(1)(i).

49. Between October 10, 2008 and May 31, 2009, Veolia operated Incinerators 2, 3, and 4 above the appropriate mercury feed rate OPL necessary to ensure compliance with the HWC MACT mercury emission standard as described in Paragraphs 29 through 38, above, in violation of the HWC MACT at 40 C.F.R. §§ 63.1206(a)(ii), 63.1206(c)(1)(i), 63.1219(a)(2).

50. Veolia failed and continues to fail to ensure that qualified personnel properly gathered and evaluated the information and supporting documentation from the 2008 metals

stack test to establish mercury feed rate OPLs that ensure compliance with the HWC MACT mercury emission standard in violation of the HWC MACT at 40 C.F.R. § 63.1211(c)(3).

51. By using the TCLP concentrations instead of the total metals on Profiles 236152 and 691163, Veolia failed and continues to fail to obtain an analysis of each of the related feedstreams sufficient to document compliance with the applicable feed rate OPLs in violation of the HWC MACT at 40 C.F.R. § 63.1209(c)(1) and 63.1209(c)(4).

52. By using generic waste profiles and assuming a constant metals concentration for variable wastes, rather than analyzing each waste stream, Veolia failed and continues to fail to obtain an analysis of each of the related feedstreams sufficient to document compliance with the applicable feed rate OPLs in violation of the HWC MACT at 40 C.F.R. § 63.1209(c)(1) and 63.1209(c)(4).

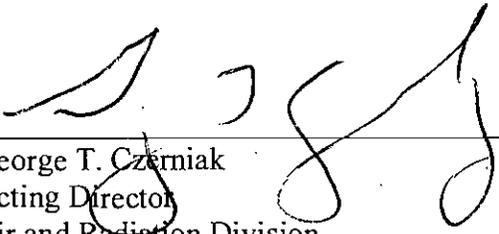
53. Veolia failed and continues to fail to analyze the ash from Incinerators 2 and 3 at a frequency necessary to obtain an analysis of each of the related feedstreams sufficient to document compliance with the applicable feed rate limits OPLs in violation of the HWC MACT at 40 C.F.R. § 63.1209(c)(1) and 63.1209(c)(4) and Section 6.0(3) of the FAP.

54. Veolia failed and continues to fail to resolve the conflict between metals data for Profiles 236152, 691163, and AF3753 which resulted in a failure to obtain an analysis of each of the related feedstreams sufficient to document compliance with the applicable feed rate OPLs in violation of the HWC MACT at 40 C.F.R. §§ 63.1209(c)(2) and 63.1209(c)(4) and Section 6.0 of the FAP.

55. Veolia failed and continues to fail to evaluate interference effects on its ICP-AES resulting in a failure to obtain an analysis of each of the related feedstreams sufficient to document compliance with the applicable feed rate limits in violation of the HWC MACT at 40 C.F.R. § 63.1209(c)(2) and 63.1209(c)(4) and Section 5.3 of the FAP.

Date

8/24/12


George T. Czerniak
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, [Name], certify that I sent a Finding of Violation, No. EPA-5-12-IL-15, by Certified Mail, Return Receipt Requested, to:

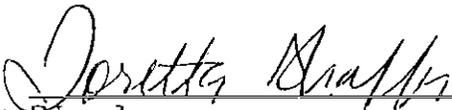
Doug Harris
General Manager
Veolia Environmental Services
#7 Mobile Avenue
Sauget, Illinois 62201

I also certify that I sent copies of the Finding of Violation by first-class mail to:

Ray Pilapil, Manager
Compliance and Systems Management Section
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue
Springfield, Illinois 62702

Joseph M. Kellmeyer
Thompson Coburn, LLP
One US Bank Plaza
St. Louis, Missouri 63101

On the 24 day of August 2012



[Name]
[Title]
AECAB, PAS

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