



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

AUG 03 2011

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Lusk, President
Michigan Disposal and Wayne Disposal
EQ - The Environmental Quality Company
36255 Michigan Avenue
Wayne, Michigan 48184

Re: Finding of Violation
Michigan Disposal/Wayne Disposal
Belleville, Michigan

Dear Mr. Lusk:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to EQ – The Environmental Quality Company (you). We find that you are violating the Federal Plan for municipal solid waste landfills, the underlying New Source Performance Standards, and your Title V renewable operating permit at your Belleville, Michigan facility.

EPA is issuing this FOV in accordance with Section 113(a)(3) of the Act, 42 U.S.C. §7413(a)(3), for violating the Section 111(e) of the Act 42 U.S.C. § 7411(e); the Standards of Performance for Municipal Solid Waste Landfills at 40 C.F.R. Part 60, Subpart WWW, the requirements for Federal Plan for Municipal Solid Waste Landfills, 42 U.S.C. § 7411(d) and 40 C.F.R. Part 62, Subpart GGG, and the Title V Permit Program requirements of the Act, 42 U.S.C. § 7661-7661f, 40 C.F.R. Part 70.

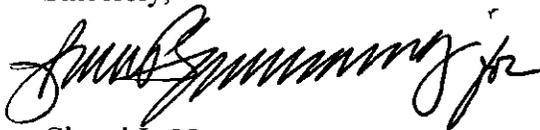
We have several enforcement options under Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). These options include issuing an administrative compliance order, issuing an administrative penalty order and bringing a judicial civil or criminal action.

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 alleged violations, 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. EPA hopes that this FOV will encourage you to achieve and maintain compliance

with the requirements of the Act. The EPA contact in this matter is Jeffrey Gahris. You may call him at (312) 886-6794 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,

A handwritten signature in black ink, appearing to read "Cheryl L. Newton". The signature is fluid and cursive, with a prominent initial "C".

Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Thomas Hess, Enforcement Unit Supervisor
Air Quality Division
Michigan Department of Environmental Quality

7. The NSPS at 40 C.F.R. § 60.11(d) requires at all times, including start-up, shutdown, and malfunction, that owners and operators, to the extent practicable, maintain and operate any facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

8. The NSPS at § 40 C.F.R. 60.755(d) requires the use of a portable organic vapor analyzer to measure the surface concentrations of landfill gases according to EPA method 21 to comply with the surface monitoring provisions found at § 60.755(c).

9. EPA granted full approval of Michigan's Title V renewable operating permit program on December 4, 2001. The program became effective on November 30, 2001. Michigan Department of Environmental Quality (MDEQ) implements the program.

10. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Title V of the CAA, or any rule promulgated, issued or approved under Title V of the CAA.

DESCRIPTION OF EQ FACILITIES

11. EQ owns and operates an inactive MSW landfill at 49350 North I-94 Service Drive, Belleville, Michigan. This landfill consists of sections known as Fons, Old Wayne, Wayne Site No. 1, and Wayne Site No. 2.

12. The MSW landfill is subject to requirements at 40 C.F.R. Part 62, Subpart GGG. This is an existing landfill that contains MSW, which received waste from about 1960 until 1985.

13. EQ submitted a FCP to meet Federal Plan requirements. EPA approved the FCP on April 26, 2004.

14. As required by the FCP, EQ installed solar-powered passive flares at Fons, Old Wayne and Wayne Site #1 in 2004. These open flares are used to control landfill gas emissions from the passive landfill vents.

15. On December 4, 2003, MDEQ issued a Renewable Operating Permit that covers the operation of open flares at Wayne Site No. 1. MDEQ issued Title V permit number MI-PTI-M4782-2003a to EQ: The Environmental Quality Company (Michigan Disposal Waste Treatment Plant), Wayne Disposal, Inc., and Wayne Energy Recovery, Inc., as a revision to the previously-issued Renewable Operating Permit, on December 15, 2006. This permit required that EQ operate passive flares designed in accordance with 40 C.F.R. § 60.18 and the EPA-approved FCP.

16. The revised permit contained the following conditions:

a. Section 3, "EUVENTFLARE" VI.1, which states "The presence of a flame shall be monitored and recorded continuously using a thermocouple or any other equivalent device to detect the presence of a flame."

b. Section 3, "EUVENTFLARE" VI.2, which states "The permittee shall keep continuous records of the flame or flame flare monitoring specified under 40 CFR section and record all periods."

c. Section 3, "EUVENTFLARE" VI.3, which states "If the permittee uses an open flare, records shall ... (keep) continuous records of the flare pilot flame or flare flame monitoring and records of all periods of operations during which the pilot flare flame is absent."

d. Section 3, TABLE C-3.1, which states "Surface emissions monitoring shall be performed in accordance with section 4.3.1 of Method 21 of Appendix A of 40 C.F.R Part 60..."

17. MDEQ renewed the Renewable Operating Permit under number MI-PTI-M4782-2010, becoming effective on September 1, 2010, and expiring September 1, 2015.

18. Section 3 of EQ's Title V permit effective on September 1, 2010, continues to require that EQ operate the vent flares in compliance with the provisions of 40 C.F.R. Part 60, Subpart A, whenever landfill gas emissions may be vented to them.

FINDING OF VIOLATION

19. On numerous occasions from January 2007 through December 2010, EQ failed to properly maintain thermocouples, pressure data loggers, and temperature data loggers for the passive vent flares. In so doing, EQ violated the Federal Plan and the NSPS general provisions and the NSPS for MSW landfills by failing to operate the passive vent flares in compliance with the provisions of 40 C.F.R. Part 60, Subpart A, whenever landfill gas emissions may be vented to them. 40 C.F.R. §§ 60.18(e) and 60.752(b)(2)(iii)(A).

20. On numerous occasions from January 2007 through December 2010, EQ violated the Federal Plan and the NSPS general provisions by failing to maintain and operate any facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions. Specifically, EQ allowed ongoing failures of pressure dataloggers, temperature dataloggers and thermocouples during this period. 40 C.F.R. § 60.11.

21. On numerous occasions from January 2007 through December 2010, EQ violated the Federal Plan and the NSPS general provisions and the NSPS for MSW landfills by failing to monitor the flares to ensure that they are operated and maintained in conformance with their designs. 40 C.F.R. §§ 60.18(d) and 60.756(c).

22. During an inspection on June 17, 2008, EPA found that the calibration gas used by EQ for surface monitoring had expired as of October 10, 2007, in violation of the procedures contained at 40 C.F.R. § 60.755(d) that reference Method 21.

23. EQ's failure to properly maintain thermocouples, pressure data loggers, and temperature data loggers for the passive vent flares in violation of Federal Plan requirements and the NSPS general provisions and the NSPS for MSW landfills are also in violation of Section 3 of the Renewable Operating Permit.

24. Additionally, EQ's violation of the procedures contained at 40 C.F.R. § 60.755(d) are in violation of Section 3 of the Renewable Operating Permit. EQ's operation in violation of its Title V permit constitutes a violation of Section 502 of the CAA and of 40 C.F.R. § 70.7(b).

ENFORCEMENT AUTHORITY

25. Section 113(a)(3) of the Act, 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, any requirement or prohibition of, *inter alia*, any rule promulgated under NSPS requirements of Section 112(d), 42 U.S.C. § 7412(d), Title V of the Act, 42 U.S.C. §§ 7661-7661f, or any rule or permit issued thereunder, the Administrator may issue an administrative penalty order under Section 113(d), issue an order requiring compliance with such requirement or prohibition, or bring a civil action pursuant to Section 113(b) for injunctive relief and/or civil penalties.

8/3/11

Date



Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Tracy Jamison, certify that I sent a Finding of Violation, No. EPA-5-11-MI-09, by Certified Mail, Return Receipt Requested, to:

David Lusk, President
EQ: The Environmental Quality Company
36255 Michigan Avenue
Wayne, Michigan 48184

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

Melinda Keillor, Environmental Manager
EQ: The Environmental Quality Company
49350 North I-94 Service Drive
Belleville, Michigan 48111

and

Thomas Hess, Supervisor
Enforcement Unit
Air Quality Division
Michigan Department of Environmental Quality
525 West Allegan Street
P.O. Box 30473
Lansing, Michigan 48909-7973

On the 3 day of August 2011



Tracy Jamison
Office Automation Clerk
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7672 7621



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

AUG 02 2011

REPLY TO THE ATTENTION OF: **LR-8J**

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David Lusk, President
Michigan Disposal and Wayne Disposal
EQ - The Environmental Quality Company
36255 Michigan Avenue
Wayne, Michigan 48184

Re: Notice of Violation – Resource Conservation and Recovery Act
Multimedia Inspection – Michigan Disposal Waste Treatment Plant and Wayne
Disposal, Inc.
EPA I.D. Nos.: MID000724831 and MID048090633

Dear Mr. Lusk:

From June 10 through 19, 2008 representatives of the U.S. Environmental Protection Agency and the Michigan Department of Environmental Quality (MDEQ) inspected the Michigan Disposal Waste Treatment Plant (MWDTP) and Wayne Disposal, Inc. (WDI) facilities located in Belleville, Michigan. The purpose of the inspection was to evaluate MDWTP's and WDI's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA), the Clean Air Act (CAA), the Clean Water Act (CWA), and the Toxics Substances Control Act (TSCA). If you would like a copy of the inspection report, please authorize the transmission of information you claimed to be Confidential Business Information that's contained in the report to you.

Based on information provided by The Environmental Quality Company (EQ), MDWTP, and WDI personnel, a review of records, and personal observations by the inspection team, EPA finds that MDWTP was in violation of the "Hazardous Waste Management Facility Operating License and Federal Resource Conservation and Recovery Act of 1976 (RCRA) Permit" ("HW Permit") issued on October 31, 2007 by MDEQ. Specifically, we find that MDWTP was in violation of the following requirements:

1. Part I, Section D.1 of the HW Permit requires the licensee to comply with the Part 111 rules. Part II, Section A.1 requires that the waste be properly characterized and managed in accordance with the Waste Analysis Plan included as Attachment 1. The Waste Analysis Plan, Section 3.8.3 requires that treatment batch residues which exceed the applicable LDRs will be re-tested after additional cure time, be retreated on-site to meet the LDRs, or shipped for off-site treatment to meet the

LDRs. If the treatment batch residues are shipped off-site for further treatment then they are to be accompanied by the LDR notification, a manifest and data required pursuant to 40 C.F.R. 268.7(a)(1). Part II Section O, of the HW Permit requires the licensee to comply with all of the requirements of 40 Code of Federal Regulations (C.F.R.), Part 268 [Michigan Administrative Rule R 299.9627 (R 299.9627) and 40 C.F.R., Part 268]. Part II, Section H of the HW Permit requires the licensee to comply with the manifest requirements of R 299.9304, 9305 and 9608. MAC R. 299.9304 (6) incorporates by reference 40 C.F.R. §262.20 which requires preparation of a uniform hazardous waste manifest to accompany off-site shipments of hazardous waste to permitted facilities. Part IV, Section C.8 of the HW Permit requires treatment of hazardous waste within the confines of the treatment building.

EPA collected samples from MDWTP Batches 25852, 25854, and 25855. Analytical results (see Enclosures A and B, in bold) indicate that MDWTP failed to treat the batches to RCRA Land Disposal Standards outlined in 40 C.F.R. § 268.48 Universal treatment standards (non-wastewater) prior to removal from the treatment building. Batch 25852 was shipped to and disposed at the Carlton Farms Landfill as non-hazardous waste on June 18, 2008. Batches 25854 and 25855 were disposed at WDI Site No. 2, Hazardous Waste Landfill, then subsequently excavated and retreated. MDWTP, therefore, violated Part I, Section D of the HW Permit and 40 C.F.R. §268, Part II of the HW Permit, Sections A.1, Attachment 1, Section 3.8.3, Part II of the HW Permit, Sections H and O, and Part IV, of the HW Permit, Section C.8 by failing to meet the treatment standards prior to disposing of these wastes on-site and off-site and not including the LDR notification, manifest and data required pursuant to 40 C.F.R. 268.7(a)(1) when shipping the treatment residuals off-site to Carlton Farms Landfill.

2. Part II, Section A.1 of MDWTP's HW permit states, "The licensee shall ensure that any waste managed at the facility has been properly characterized pursuant to R 299.9302, and comply with the procedures described in the Waste Analysis Plan [WAP], Attachment 1, of this license. {R 299.9605(1) and 40 CFR, §264.13}." From May 2006 through June 2008, MDWTP added leachate from Wayne Disposal Inc.'s Site No. 2, Master Cell VI (a hazardous waste landfill cell) to treatment tank batches containing hazardous wastes listed due to toxicity for metals. MDWTP did not obtain the Generator Waste Characterization Report required by MDWTP's WAP or an equivalent form for this waste stream. It did not perform a pre-approval treatability study on the leachate. It did not analyze the post-treatment concentration of organics in the batches to which it added the leachate unless the waste streams added to them also contained organic chemicals above the LDR treatment standard. Monthly samples of the organic concentration of organics in the leachate were provided to EPA for January 2006 through May 2008. Based on a review of the data from the May 2008 sampling event, Land Disposal Restriction treatment standards were exceeded in the leachate for acetone, benzene, toluene, and phenol. Prior to land disposal, MDWTP did not

perform sampling on the treated batches to demonstrate that the LDR nonwastewater treatment standards for the organics in F039 had been met. The batches were disposed at WDI Site No. 2, Hazardous Waste Landfill. MDWTP, therefore, violated Part II of the HW Permit, Section A.1, Attachment 1, Section 3.1.1 when it added leachate without obtaining a Generator Waste Characterization Report. It violated Part II of the HW Permit, Section A.1, Attachment 1, Section 6.3.5 when it used the leachate without obtaining a chemical assay of leachate as a reagent without prior approval. It violated Part II of the HW Permit, Section A.1, Attachment 1, Section 3.7.3 when it did not conduct pre-approval treatability studies to verify the acceptability of the leachate with the treatment process and the treatment recipe. It violated Part II of the HW Permit, Section O and 40 C.F.R. §268.7 when in May 2008 it generated treated waste which included F039 leachate.

3. Part I, Section D.1 of MDWTP's HW permit states, "The licensee shall comply with Part 111 of Act 451, the rules, and all conditions of this license," and MAC Rule R 299.9306(2) states, "A generator may, without a construction permit or an operating license issued pursuant to part 111 of the act and without complying with subrule (1) of this rule, accumulate as much as 55 gallons of hazardous waste in containers at or near any point of generation where wastes initially accumulate and which is under the control of the operator of the process that generates the waste if he or she complies with 40 C.F.R. §§265.171, 265.172, and 265.173 and marks his or her containers with the hazardous waste number of the waste and the words 'Hazardous Waste.'" On June 16, 2008, NEIC inspected the drum pad receiving area and spoke with Mike Rohde, a drum sampler for EQ. He explained how drums were sampled and where waste drum sampling tubes were placed. The satellite accumulation container at the drum pad, used to collect used sampling tubes and personal protective equipment (PPE), was not labeled with the words "hazardous waste." During the close-out meeting on June 19, 2008, Ms. Keillor informed NEIC personnel that a label with the words "hazardous waste" was put on the container. On June 16, 2008, MDWTP violated the requirement to label satellite accumulation containers with the words "Hazardous Waste."
4. MAC Rule 809 states, "Used oil and the following materials are subject to regulation as used oil pursuant to the provisions of R 299.9810 to R 299.9816;" R 299.9813(3) requires used oil processors to comply with the provisions of 40 C.F.R. §§ 279.54 and 279.55; and, R299.9813(4) requires used oil processors/refiners to ensure that the used oil is not a hazardous waste, pursuant to the provisions of R 299.9809(2)(b), by testing the used oil or applying knowledge of the halogen content of the used oil in light of the materials or processes used [40 CFR § 279.53]. Based on inspector observations, review of the waste characterizations, and information provided by MDWTP employees, wastestreams 016204WTS, C081047MDI, and 013490WTS were being managed as used oil destined for recycling. MDWTP notified regulatory agencies of its regulated waste activity, including identifying itself as a used oil processor because it stores used oil for more than 35 days. MDWTP did not perform total

halogen determinations on wastes with approval codes 016204WTS, C081047MDI, and 013490WTS and does not have a used oil analysis plan, as required by MAC Rule R 299.9813(3) [40 CFR § 279.55]. No “used oil” labels were observed on containers identified by profiles as “used oil,” in violation of MAC R299.9813(3) [40 CFR § 279.54(f)].

5. Part III of the HW Permit requires that, prior to the placement of waste in the landfill, the licensee shall comply with Condition II.S. of this license [MAC R 299.9627 and 40 CFR Part 268, which is adopted by reference in R 299.11003]. Part II Section S of the WDI HW Permit requires that the licensee shall comply with all of the requirements of 40 C.F.R. Part 268 [R 299.9627 and 40 CFR Part 268, which is authorized by rule in MAC R 299.11003]. Tank treatment batches 25854, 25855, and batches containing hazardous wastes listed due to toxicity for metals treated with leachate, as described in Violation 2, were land disposed at the WDI Site No. 2, Hazardous Waste Landfill. WDI, therefore, violated the Land Disposal Restriction at 40 CFR 268.40. Based on information provided by The Environmental Quality Company (EQ), MDWTP, and WDI personnel, a review of records, and personal observations by the inspection team, EPA finds that WDI was in violation of the “Hazardous Waste Management Facility Operating License and Federal Resource Conservation and Recovery Act of 1976 (RCRA) Permit” (“HW Permit”) issued on July 3, 2001 by MDEQ.

Under Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), EPA may issue an order assessing a civil penalty for any past or current violation and requiring compliance immediately or within a specified time period. Although this letter is not such an order, EPA requests that you submit a response in writing to this office no later than 14 days after your receipt of this letter documenting the actions, if any, that you have taken since the inspection to establish compliance with the above requirements. However, please be advised that MDWTP’s and WDI’s compliance with the conditions and requirements described above will not relieve MDWTP and WDI of their liability for the violations identified in this letter. EPA reserves the right to bring further enforcement actions (including an action for civil penalties) against MDWTP and/or WDI for the violations identified in this letter.

You should submit your response to Sue Brauer, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, LR-8J, Chicago, Illinois 60604. If you have any questions regarding this letter, please contact Sue Brauer, of my staff, at (312) 353-6134.

Sincerely,



Mary S. Setnicar
Acting Chief, RCRA Branch
Land and Chemicals Division

Enclosures

A - Select NEIC Results from Total Volatile Constituent Analyses, MWDTP Batch 25852

B - Select NEIC Results from TCLP Inorganic Analyses MDWTP Treatment Batches 25854 and 25855

Enclosure A

SELECT NEIC RESULTS FROM TOTAL VOLATILE CONSTITUENT ANALYSES MWDTP BATCH 25852				
NEIC Station Number	Trichloroethylene (mg/kg)	Toluene (mg/kg)	Tetrachloroethene (mg/kg)	Xylene (mg/kg)
52F01	<1	5.1	4.2	7.0
52F02	<1	31.1	2.7	13.0
52F03	1.1	42.5	<1	12.7
52F04	<0.5	14.3	15.4	5.7
52F05	<1	5.2	2.3	3.6
52F06	<1	5.8	2.3	4.7
LDR Treatment Standard (UTS)	6	10	6	30

Key: mg/kg =Milligrams per kilogram.

NEIC =U.S. EPA National Enforcement Investigations Center

Enclosure B

SELECT NEIC RESULTS FROM TCLP INORGANIC ANALYSES					
MDWTP TREATMENT BATCHES 25854 AND 25855					
NEIC Station Number	Barium (mg/L)	Cadmium (mg/L)	Chromium (mg/L)	Zinc (mg/L)	TCLP pH (standard units)
54B01	0.05	1.86	0.06	25.1	7.75
54B02	0.08	0.008	0.168	<0.05	9.28
54B03	0.12	0.028	<0.02	<0.05	9.05
54B04	0.27	0.392	0.235	1.12	8.37
54B05	<0.05	0.062	0.058	<0.05	8.82
54B06	<0.05	0.029	0.099	<0.05	9.09
54B07	<0.05	0.08	0.13	<0.05	8.73
54B08	<0.05	2.88	0.066	66.5	7.48
55H01	0.14	<0.004	1.11	<0.05	9.54
55H02	0.13	0.009	0.723	1.39	8.64
55H03	0.08	0.014	0.648	3.31	8.23
55H04	0.06	0.091	0.327	76.0	7.73
55H05	0.09	0.183	<0.02	111.0	7.13
55H06	<0.05	0.029	0.318	12.7	7.69
55H07	<0.05	0.083	4.01	35.2	7.99
55H08	<0.05	0.012	0.608	2.03	8.22
55H09	<0.05	0.102	<0.02	86.	7.6
LDR Treatment Standard (UTS)	21	0.11	0.6	4.3	N/A

Key: mg/L =Milligrams per Liter.

Note: The "TCLP pH" values in this column are the TCLP extraction fluid final pH measurements.