



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

DEC 2 2 2008

REPLY TO THE ATTENTION OF:

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Tony Hill
Regulatory Compliance Coordinator
Olmsted Waste-to-Energy Facility
Olmsted County Public Works
2122 Campus Drive SE, Suite 200
Rochester, Minnesota 55904

Re: Finding of Violation
Olmsted Waste-to-Energy Facility, Rochester, Minnesota

Dear Mr. Hill:

This letter advises you that the U. S. Environmental Protection Agency (or we) has determined that Olmsted County, Minnesota's Olmsted Waste-to-Energy Facility's facility at 301 Silver Creek Road NE, Rochester, Minnesota (OWEF) has violated the Clean Air Act (CAA) and the Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999 (hereinafter, the Small MWC FIP). We have provided a list of the requirements violated below. We are today issuing to you a Finding of Violation (FOV) for these violations.

Section 129 of the CAA requires the EPA Administrator to promulgate standards of performance for new and existing solid waste incineration units, including monitoring requirements for operating parameters. On January 31, 2003, EPA promulgated the Small MWC FIP to protect public health and the environment.

The Small MWC FIP includes the following requirements:

- 1) The Small MWC FIP requires the owner or operator of a Small MWC Unit using activated carbon to control dioxins/furans and/or mercury emissions to continuously monitor the average carbon feed rate in kilograms (or pounds) per hour during all periods when the MWC Unit is operating and combusting waste, and to calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. The dioxins/furans and mercury stack test for the MWC at the OWEF occurring on November 14 and 15, 2005 demonstrated an average carbon feed rate of 2.7 pounds per hour. Injection of Powder Activated Carbon (PAC) is used for controlling mercury emissions, and dioxins and furans emissions, produced from waste

combustors. Mercury is a central nervous system toxin and a kidney toxin, and has other adverse health effects. Dioxins and furans are detrimental to liver function, endocrine and reproductive functions, and has other adverse health effects.

- 2) The Small MWC FIP requires the owner or operator of a Small MWC Unit using activated carbon to control dioxins/furans and/or mercury emissions to keep records of all 8-hour block average carbon feed rates in kilograms (pounds) per hour calculated from the monitored operating parameter.

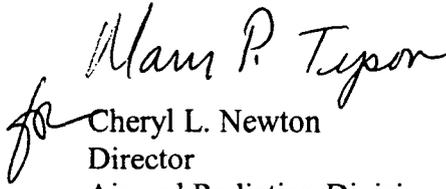
EPA finds that the Olmsted County's OWEF facility has violated the above listed Small MWC FIP requirements.

Section 113 of the CAA gives EPA several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action.

Before we decide which enforcement option is appropriate, Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the FOV. This conference will provide you a chance to present information on the identified violations, any 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 take part in these discussions. You may have an attorney represent and accompany you at this conference.

EPA contact in this matter is Charles Hall. You may call him at (312) 353-3443. If you wish to request a conference, you should do so within 10 days following receipt of this FOV. The parties should hold the conference within 30 days following receipt of this notice. EPA hopes that this FOV will encourage OWEF's compliance with the requirements of the Clean Air Act.

Sincerely,


Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: Jeff T. Connell, Minnesota Pollution Control Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:)	FINDING OF VIOLATION
)	
Olmsted Waste-to-Energy Facility)	EPA-5-09-MN-03
Olmsted County Public Works Department)	
Rochester, Minnesota 55904)	
)	
Proceedings Pursuant to the Clean Air Act,)	
42 U.S.C. §§ 7401 et seq.)	

FINDING OF VIOLATION

Olmsted County Public Works Department Waste-to-Energy Facility (you or OWEF) owns and operates Waste Combustor Unit 2 (Unit 2), a Small Class II municipal waste combustor at 301 Silver Creek Road NE, Rochester, Minnesota.

EPA is sending this Finding of Violation (FOV) to you for: Violation of monitoring and recordkeeping requirements for operating parameters set forth in the Federal Plan Requirements for Small Municipal Waste Combustion Units Constructed on or Before August 30, 1999, 40 C.F.R. 62, Subpart JJJ (hereinafter, the Small MWC FIP) between July 24, 2005 and August 12, 2005. The underlying statutory and regulatory requirements include provisions of the Clean Air Act (CAA) and the Small MWC FIP.

Section 113 of the CAA provides you with the opportunity to request a conference with us to discuss the violations alleged in the FOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for the Facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

Explanation of Violations

The following provides a description of the regulations OWEF violated and how OWEF violated them:

1. Unit 2 is a 100-ton per day municipal waste combustion unit. Construction of Unit 2 commenced on or before August 30, 1999. The Minnesota Pollution Control Agency has not submitted to EPA a CAA Section 111(d) plan for small municipal waste combustion units constructed on or before August 30, 1999. Therefore, Unit 2 is subject to the Small MWC FIP.
2. Between November 9 and 15, 2005, OWEF conducted mercury and dioxins/furans performance tests. OWEF injects activated carbon after the secondary combustion chamber to control dioxins/furans and mercury emissions. OWEF continuously recorded

the PAC injection rate during the November 9-15, 2005 performance tests. The average activated carbon injection rate was 2.7 pounds per hour.

3. Pursuant to 40 C.F.R. § 62.15275(c), OWEF must continuously monitor a selected operating parameter during all periods when the municipal waste combustion unit is operating and combusting waste, and calculate the 8-hour block average carbon feed rate in kilograms (or pounds) per hour, based on the selected operating parameter. OWEF's selected operating parameter has been the PAC injection rate.
4. On July 24, 2005, the OWEF incorrectly installed a Powdered Activated Carbon (PAC) bag into Unit 2's activated carbon injection (ACI) system. The ACI system indicated a high hopper level when, in fact, there was no PAC in the hopper or flowing. The OWEF failed to verify PAC flow by visually looking in the eductor for flow during normal hourly inspections. Therefore, the OWEF failed to continuously monitor the selected operating parameter during all periods when the MWC unit was operating and combusting waste, in violation of 40 C.F.R. § 62.15275(c).
5. Pursuant to 40 C.F.R. § 62.15310(a)(3), the owner or operator of a Small MWC Unit must keep records of all 8-hour block average carbon feed rates from the monitored operating parameter.
6. The 2005 Annual Report Submittal states that the lowest 8-hour block average that the Continuous Emissions Monitoring (CEM) system recorded during 2005 for Unit 2 was 0.0 pounds per hour. This occurred between July 24 and August 12, 2005. OWEF failed to record the 8-hour block average carbon feed rates during this time, which would have shown low carbon feed rates and alerted OWEF personnel to the installation problems identified in paragraph 4, above.

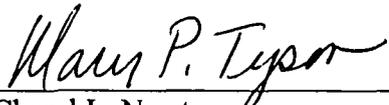
Environmental Impact of Violations

Injection of PAC is used for controlling dioxins and furans, and mercury emissions, produced from waste combustors. Mercury is a central nervous system toxin and a kidney toxin, and has other adverse health effects.

Dioxins and furans are detrimental to liver function, endocrine and reproductive functions, and has other adverse health effects.

12/22/08

Date



Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Finding of Violation, No. EPA-5-09-MN-03, by Certified Mail, Return Receipt Requested, to:

Tony Hill
Regulatory Compliance Coordinator
Olmsted Waste-to-Energy Facility
2122 Campus Drive SE, Suite 200
Rochester, Minnesota 55904

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

Jeff T. Connell, Manager
Compliance and Enforcement Section
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Road
St. Paul, Minnesota 55155-4194

on the 23 day of December, 2008.


Loretta Shaffer, Secretary
AECAS, (MN/OH)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0006 0186 0168