



**SUMMARY AND RESPONSE TO COMMENTS
DRAFT MISSOURI HAZARDOUS WASTE MANAGEMENT FACILITY
PART I PERMIT
HERITAGE ENVIRONMENTAL SERVICES LLC
KANSAS CITY, MISSOURI
EPA ID# MOD981505555**

The Missouri Department of Natural Resources (hereafter the Department) issued a final Missouri Hazardous Waste Management Facility Part I Permit to Heritage Environmental Services, LLC (hereafter the Permittee) for its facility located at 8525 Northeast 38th Street in Kansas City, Missouri. The Department conducted public participation activities for the draft Part I Permit, as outlined in Code of State Regulations 10 CSR 25-8.124(1)(A)10. The Department invited the public to review and offer written comments on the draft permit during a 45-day public comment period, which began June 27, 2019, and ended August 12, 2019.

All written comments received during the public comment period concerning the draft Part I Permit are listed below. The Department's response to each comment and an explanation of how each comment was addressed in making a final decision regarding the final Part I Permit is also included. The Department changed certain requirements in the final Part I Permit based on technical or legal issues brought up by the comments. All changes made in the final Part I Permit are identified in the responses. This Summary and Response to Comments was prepared according to the requirements in 10 CSR 25-8.124(1)(A)17.

GENERAL COMMENTS

In order to accurately cite the federal regulations according to the conventions put in place by the federal government, all instances of "CFR" have been updated to "C.F.R."

COMMENTS FROM THE PERMITTEE:

Comment #1:

Cover Page – Page 1 – Please change the Permittee / Owner and Operator address to 5400 West 86th Street Indianapolis, IN 46268, to match the address of our corporate office in Indianapolis.

Response #1:

The final Part I Permit language has been changed to incorporate the language above.

Comment #2:

Introduction – Page 6 – Please add to the list of items collectively referred to as the "approved permit application" at the bottom of page 6: Class 1 Permit Modification Without Prior Director's Approval for changes to the emergency coordinators list in the contingency plan, acknowledged by the Department on March 26, 2019.

Response #2:

The final Part I Permit language has been changed to incorporate the language above.

Comment #3:

Definitions – Pages 9 and 10 – Please remove Continuous Monitor, Hourly Rolling Average, One Minute Average, Polychlorinated Biphenyl (PCB), and PCB Container, because these terms are not relevant to the permit.

Response #3:

The final Part I Permit language has been changed to incorporate the language above.

Comment #4:

Standard Permit Condition II. – Page 12 – Please remove the sentence regarding submittal of a permit renewal application at least 24 months before expiration of the permit. 180 days prior to the expiration date of the permit as specified at 40 CFR 270.10(h)(1) is sufficient for timely reissuance of the permit and is clearly specified as a standard condition of the regulations. Submitting a permit application two years prior to the expiration date of the facility permit is an unnecessary burden on the permittee.

40 CFR 270.32 governs the establishment of permit conditions to ensure consistency in the implementation of the requirements under RCRA beyond the “standard conditions” specified in 40 CFR 270.30. An additional permit condition regarding “timely reissuance” of a permit is unnecessary considering the long-established (at least 30 years) regulatory requirement in 40 CFR 270.10(h)(1).

Response #4:

The Department acknowledges the Permittee’s concern and has added language to the permit to allow for a later submittal date. The following language has been added: “However, in order not to jeopardize timely reissuance, according to 40 C.F.R. § 270.32(b)(2), the Permittee shall submit a permit renewal application to the Department at least 24 months before the expiration date of this Permit, *unless the Department allows a later date pursuant to General Permit Condition V.*”

Comment #5:

Special Permit Condition II.E.2.a. – Page 16 – Please remove “codes” from this condition.

Response #5:

The final Part I Permit language has been changed to remove the word “codes” from the condition identified above.

Comment #6:

Special Permit Condition II.E.2.b(1) – Page 17 – Please change “same material” to “same waste stream” to provide additional clarity.

Response #6:

The final Part I Permit language has been changed to reflect the clarifying wording above.

Comment #7

Special Permit Condition II.E.2.b(3) – Page 17 – Please remove “codes” from this condition.

Response #7:

The final Part I Permit language has been changed to remove the word, “codes”, from the condition identified above.

Comment #8:

Special Permit Condition II.H. Temporary Management – Page 19 – Please remove the words “solid and” from the third sentence of this condition (change to: “The Permittee may stage pass through hazardous was in the area set aside as a 10-day transfer facility area...” Solid (non-RCRA hazardous) waste is managed in accordance with a separate Solid Waste Processing Facility Permit issued by the Solid Waste Program of the MDNR.

Also, for clarity, please remove “and within 72 hours per 10 CSR 25-7.264(B)(3)(1)” from the end of this permit condition. The time frames for loading and unloading rail cars are included in the Railroad Tankcar Operation Plan provided in the approved permit application (permit application Attachment K).

Response #8:

The final Part I Permit language has been changed to incorporate the language above.

Comment #9:

Corrective Action Condition II.A. – Page 33 – Please remove the last sentence of this condition regarding if the Permittee should have known that a release occurred.

Response #9:

The final Part I Permit language has been amended as requested above.

Comment #10:

Corrective Action Condition IV.1. – Page 38 – Please remove the last sentence of this condition regarding if the Permittee should have known ISMs might be required and notification should have occurred.

Response #10:

The final Part I Permit language has been amended as requested above.

Comment #11:

Corrective Action Conditions X.A.1 and X.A.2 – Page 47 – Please remove these conditions from the permit or explain the basis and provide the regulatory or statutory requirements governing these requirements related to the transfer of real property as they are presented in the draft permit. 40 CFR Part 270.40 pertains to the transfer of a permit or operational control of a facility and not the transfer of real property. Furthermore, a

permit transfer is specified as a Class 1 Permit Modification requiring prior approval in 40 CFR Part 270.40. It appears that the permit condition requires a Class 3 Permit Modification to transfer real property along with other technical requirements for a survey, restrictive covenant, etc. that is not required by any regulation.

Response #11:

The Permittee does not have “active” corrective action at the permitted facility. The Corrective Action Conditions of the permit are all contingent, and not specific to the Permittee at this time. No changes were made to the final Part I Permit language in response to this comment.

Comment #12:

Corrective Action Condition X.B. – Page 47 – Because there is no contamination at the facility, there is no need to notify the Department. Therefore, this condition is not relevant.

Response #12:

The Permittee does not have “active” corrective action at the permitted facility. The Corrective Action Conditions of the permit are all contingent, and not specific to the Permittee at this time. No changes were made to the final Part I Permit language in response to this comment.

Comment #13:

Financial Assurance Condition I.A.1.b – Page 50 – Please remove this condition requiring PE certification of the cost estimates and the use of cost estimating software or provide the applicable regulatory citation for these requirements.

Response #13:

The final Part I Permit language has been changed to remove this condition.

Comment #14:

Financial Assurance Condition II.A. – Page 53 – Please add “or other traceable means of delivery” after “by certified mail”.

Response #14:

The final Part I Permit Modification language has been changed to incorporate the language above.

Comment #15:

Table 4. Planned Submittal Requirements Item #5 – Page 64 – Annual Reports (Standard Permit Condition I). Please change the due date to within 45 calendar days after end of each reporting period (instead of end of each calendar year).

Response #15:

The final Part I Permit Modification language has been changed to incorporate the language above.

Comment #16:

Table 4. Planned Submittal Requirements Item #7 – Page 64 – Permit Renewal Application (Standard Permit Condition II). Please change the due date to at least 180 days (instead of 24 months) before expiration of this Permit. (See also Comment #4.)

Response #16:

See response to Comment #4.

Comment #17:

Table 5. Corrective Action Submittal Requirements Item #14 – Page 66 – Change in Use of Property Notification (Corrective Action Condition X.B.) is not relevant because there is no contamination at the facility. (See also Comment #12.)

Response #17:

See response to Comment #11.