



John R. Kasich, Governor
Mary Taylor, Lt. Governor
Scott J. Nally, Director

January 3, 2013

RE: ROSS INCINERATION SERVICES, INC.
OHD 048 415 665, TSD/LQG
NOTICE OF VIOLATION (NOV)
RETURN TO COMPLIANCE (RTC)

Patricia R. Lawson
Vice President, Administration
Ross Incineration Services, Inc.
36790 Giles Road
Grafton, OH 44044

Dear Ms. Lawson:

During walk-throughs at the Ross Incineration Services Inc. (RIS) facility on December 4, 2012 and December 6, 2012, I observed that RIS had completed the following work for the tanker direct feed system upgrades located in the South Landfill area:

- All of the new concrete pad, except for a small area that was not poured to facilitate installation of a new pipe trench;
- New retaining walls on the east and south boundaries of the new concrete pad; and,
- Relocation of the Drum Direct Feed station to near the Metering Building.

The concrete pad was poured on November 29, 2012. The retaining walls were poured on December 5, 2012. The Drum Direct Feed station was relocated at about this time.

Completion of this construction work resulted in the following violation of Ohio's hazardous waste rules and RIS's Ohio Hazardous Waste Permit.

**1. OAC Rule 3745-50-51 Permit Modifications
Permit Condition A.15 Planned Changes**

Condition A.15 of RIS Ohio Hazardous Waste Permit states, "The Permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility. **All such changes must be made in accordance with OAC Rule 3745 50 51.**" [Emphasis added.]

Installation of the concrete pad and the retaining walls as described above was not completed in accordance with OAC Rule 3745-50-51. RIS submitted a Class 1A Permit Modification Request (PMR) dated October 4, 2012 that was received by Ohio EPA on October 10, 2012, entitled *Tanker and Drum Direct Feed Upgrades*. Included in that PMR was a request for Ohio EPA approval to construct, among other items, a new retaining wall system, a new West Direct Feed Pipe trench/sump system, and an expansion of the direct feed pad with an approximately 7,224 square feet concrete slab and to relocate the Drum Direct Feed station.

On November 1, 2012 Ohio EPA issued a Modification Classification Determination Letter to RIS pursuant to OAC Rule 3745-50-51(E) concurring with RIS's proposed classification of the relevant PMR as a Class 1A (i.e., a Class 1 with prior approval) permit modification. OAC Rule 3745-50-51(A)(1)(b) states in part, "The director's prior written approval is also required for those modifications classified by the director as "Class 1" modifications needing prior written approval pursuant to paragraph (E) of this rule."

Ohio EPA had not approved the relevant Class 1A PMR as of the date of the above construction activities. Consequently RIS violated OAC Rule 3745-50-51 and Permit Condition A.15 by installation of the concrete pad and retaining walls and relocation of the Drum Direct Feed operations.

In response to agency questions, RIS representatives noted that RIS had an approved "Rule 13" for work on the South Landfill and thought that the "Rule 13" authorization included this construction work. The referenced "Rule 13" is a document dated July 20, 2012 and titled OAC 3745-27-13 at *Ross Incineration Services, Inc.* Ohio EPA received the document on July 23, 2012. The document was submitted pursuant to Ohio Administrative Code (OAC) Rule 3745-27-13(F) for proposed excavation activities in the South Landfill located in Solid Waste Management Unit Area 4 (SWMUA 4) at the RIS facility.

On August 17, 2012, Ohio EPA received a document dated August 15, 2012 titled OAC 3745-27-13 at *Ross Incineration Services, Inc.* which contained revisions to the July 20, 2012 document of the same name. These revisions were submitted in response to comments on the July 20, 2012 document issued to RIS by Ohio EPA.

On September 13, 2012, Ohio EPA issued a letter to RIS which stated in part, "Ohio EPA has no objection to RIS commencing those activities identified in the document titled OAC 3745-27-13 at *Ross Incineration Services, Inc.*, as modified by the revisions dated August 15, 2012 and received by Ohio EPA on August 17, 2012, in accordance with OAC Rule 3745-27-13(F)."

Authorization for the above described construction work is not provided by the "Rule 13". Section (7) *Description of proposed activities at the site* in the RIS Rule 13 for the South Landfill excavation includes the following: "RIS intends to remove a portion of the South Landfill to **prepare an area for concrete installation...** Once the excavation is completed, **the area will be prepped for the installation of concrete** for the Tanker Direct Feed pad." [Emphasis added.]

Preparing and prepping an area for concrete installation does not encompass installation of the concrete. The RIS Class 1A (i.e., a Class 1 with prior approval) Permit Modification Request (PMR) dated October 4, 2012 entitled *Tanker and Drum Direct Feed Upgrades* includes the following relevant information:

- "Stage one of the project includes **excavation and backfilling** the area west of the northern end of the South Landfill...A 'Rule 13' Request for the **excavation and backfilling** of the areas associated with the closed South Landfill has been submitted separately from this PMR, and approval has been received from Ohio EPA."

- "Stage Two of the project includes the installation a **new retaining wall system** along the east and south borders of the newly excavated area...installation of new West Direct Feed Pipe trench/sump system...**expansion of the direct feed pad by approximately 7,224 square feet...constructed of high quality dense concrete...consist[ing] of a 10-inch reinforced slab over six inches of stabilized aggregate...**"
- "Stage Three of the project includes the physical **relocation of the Drum Direct Feed station...to the existing Tanker Direct Feed location...**" [Emphasis added.]

The language in the PMR reflects that the "Rule 13" did not grant authority to construct a new concrete pad and retaining walls. RIS was made aware of this in the agency's August 8, 2012 comments on the July 20, 2012 "Rule 13" submittal. Following is one of the agency's comments and RIS' subsequent response to it.

Ohio EPA's comment:

"The Rule 13 Request makes several references to construction of a tanker direct feed pad on the excavated portion of the South Landfill. However, RIS has not submitted a Permit Modification Request under its hazardous waste permit for the construction of such a direct feed pad. RIS should submit an appropriate Permit Modification Request."

RIS' response:

"RIS had not yet completed the project plan for the tanker direct feed pad. However, upon its completion a permit modification request will be sent to Ohio EPA for evaluation and approval."

On November 29, 2012 Ohio EPA sent an email to RIS stating that based on observations by an on-site inspector at RIS the previous day, it appeared by RIS might be planning to initiate construction of the concrete pad on the excavated South Landfill area prior to approval of the relevant Class 1A PMR and that construction should not begin without approval of the PMR.

A response email from RIS to Ohio EPA sent later on November 29, 2012, stated that RIS did not intend to not leave the landfill without a cover for any longer than necessary, that RIS' intent was that the concrete installation would immediately follow the South Landfill excavation, that RIS believed previous discussions supported that intent, and that the first of at least 13 scheduled concrete truck deliveries had begun pouring the pad prior to RIS receiving the agency's email earlier that day.

Ohio EPA reviewed the need for an approved PMR before constructing the concrete pad with RIS in a Permit Issues Meeting on December 3, 2012. On December 6, 2012, Ohio EPA advised RIS that an approved PMR was needed before performing any more construction work on this project.

Later in the day on December 6, 2012 Ohio EPA received an electronic copy, and on December 7, 2012 Ohio EPA received a paper copy, of RIS's response to agency comments on the Class 1A PMR dated October 4, 2012. Ohio EPA reviewed the responses and issued an approval dated December 10, 2012 for the Class 1A PMR dated October 4, 2012 as amended by the addendum dated December 6, 2012.

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RIS's response dated December 6, 2012 to the agency's comments on the Class 1A PMR, RIS' December 6, 2012 halt to further construction until PMR approval, and Ohio EPA's subsequent approval dated December 10, 2012, served to return RIS to compliance. No additional actions are required of RIS to abate this violation.

If you have any questions, please contact me by telephone at (330) 963-1165 or by e-mail at neil.wasilk@epa.state.oh.us.

Sincerely,



Neil Wasilk
Environmental Specialist II
Division of Materials and Waste Management

NW:ddw

cc: Marlene Kinney, Ohio EPA, DMWM, NEDO
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John Paquelet, Ohio EPA, DMWM, NEDO
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