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Mary Taylor, Lt. Governor
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Division of Materials and Waste Management

Response to Comments

**Project: Ross Incineration Services, Inc. Ohio Hazardous Waste Facility
Installation and Operation Permit Renewal
Ohio EPA ID #: OHD 048 415 665**

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Ohio EPA held a comment period from September 27, 2013, through November 22, 2013, for a draft hazardous waste renewal permit for Ross Incineration Services, Inc. (RIS). This document summarizes the comments received during the comment period which ended on November 22, 2013. The only comments received were those submitted by RIS. No comments were received from members of the public during the public hearing on the draft hazardous waste renewal permit held at the Grafton Midview Public Library, 983 Main Street, Grafton, Ohio, on Thursday, November 21, 2013.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health. Often, public concerns fall outside the scope of that authority. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

RIS's comments are not included verbatim in the response to comments; rather, each response includes a summary of the comment and references the specific numbered RIS comment. A copy of RIS's comments is available by contacting Ohio EPA.

RIS Comment No.: 1
Location in Draft Renewal Permit: **Module A, Condition A.15, Planned Changes**
RIS Potential Concern(s): **Not consistent with regulations**
RIS Recommended Follow-Up Action(s): **Incorporate additional word as suggested**

Ohio EPA Response:

This comment alleges that draft Condition A.15 is not consistent with OAC Rule 3745-50-58(L)(1) which it references and so is overly broad and could be construed to apply to portions of the facility which should not be subject to this condition. The comment notes that draft Condition A.15 states in part:

“The Permittee must give notice to the Director as soon as possible of any planned physical alterations or additions to the facility.”

The comment notes that OAC Rule 3745-50-58(L)(1) states:

“The permittee must give notice to the director as soon as possible of any planned physical alterations or additions to the **permitted** facility.” [Emphasis added.]

The comment requests that Condition A.15 be revised to include the word “permitted” before the word “facility” to make it consistent with OAC Rule 3745-50-58(L)(1).

In addition to inclusion of the word “permitted” in OAC Rule 3745-50-58(L)(1), Ohio EPA notes that OAC Rule 3745-50-51(A)(1), which is also referenced by this condition, refers to one of the situations to which the permit modification process applies as when “The permittee desires to accomplish alterations, additions, or deletions to the **permitted** facility...” [Emphasis added.]

Ohio EPA intended for this condition to only apply to the permitted facility and believes that it is how it would be applied. However, to avoid the potential for confusion, Condition A.15 has been revised to read in part:

“The Permittee must give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.”

JAN 29 2014

RIS Comment No.:	2
Location in Draft Renewal Permit:	Module A, Condition A.27, Compliance Schedule Documents
RIS Potential Concern(s):	Does not include permit modification requests which were submitted to Ohio EPA after September 27, 2013
RIS Recommended Follow Up Action(s):	Modify to incorporate the provisions as suggested

Ohio EPA Response:

This comment objects to the draft Condition A.27(b) requirement that RIS submit an updated closure/post-closure cost estimate, an updated financial assurance mechanism for closure and an updated third party liability mechanism within 60 days after permit journalization. The comment states that this incorrectly implies that RIS did not meet its annual regulatory obligation for updating these items in 2013. The comment notes that RIS did in fact submit these updates after the issuance of the draft permit on September 27, 2013. The comment further notes RIS has submitted other permit modification requests since September 27, 2013, that are not addressed by draft Condition A.27.

The comment requests that draft Condition A.27(b)(i), (ii) and (iii) be removed and Condition A.27(b) be amended to read as follows:

The Permittee must submit to Ohio EPA within sixty (60) days after permit journalization, in accordance with Ohio's hazardous waste rules, all of the permit modification requests which it submitted after September 27, 2013, in the form of an administrative Class 1 permit modification request without prior director's approval, so that the submitted information can be incorporated in the renewed permit application.

Ohio EPA does not agree that draft Condition A.27(b) implies that RIS did not meet its annual regulatory obligation. Draft Condition A.27(b) is standard model permit language, intended to apply to many situations; it was not intended to imply that RIS did not meet its annual regulatory obligation. Consequently no changes are necessary to draft Condition A.27 (b).

The issue raised in RIS's comments that all permit modification requests submitted since the issuance date of the draft permit must be re-submitted if they are to be included in the new permit is valid. To clarify this obligation, the following condition A.27(c) has been added to the permit:

"Within sixty (60) days of permit journalization the Permittee must submit to Ohio EPA in accordance with Ohio's hazardous waste rules, in the form of an administrative Class 1 permit modification request without prior Director's

JAN 29 2014

approval, all the permit modification requests which it submitted after September 27, 2013 and which Ohio EPA has approved or acknowledged, so that the submitted information can be incorporated in the renewal permit and/or permit application. For each permit modification request submitted prior to the date of journalization and for which Ohio EPA approval or acknowledgement occurs after the date of permit journalization, the Permittee must submit the approved or acknowledged permit modification request to Ohio EPA within 60 days of such approval or acknowledgement in accordance with Ohio's hazardous waste rules, in the form of an administrative Class 1 permit modification request without prior Director's approval so that the submitted information can be incorporated in the renewal permit and/or permit application.

This information must be submitted in accordance with OAC Rule 3745-50-51."

RIS Comment No.:	3
Location in Draft RCRA Part B Permit:	Module B, Condition B.1(a), Design and Operation of Facility
RIS Potential Concern(s):	Not consistent with regulations
RIS Recommended Follow Up Action(s):	Remove word as suggested

Ohio EPA Response:

Draft Condition B.1(a) states:

"The Permittee must design, construct, maintain and operate the facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil, ground water or surface waters which could threaten human health or the environment." [Emphasis added.]

This comment notes that draft Condition B.1(a) is not consistent with OAC Rule 3745-54-31 which it references since Condition B.1(a) includes "ground water" while OAC Rule 3745-54-31 does not include "ground water." The comment asks that "ground water" be deleted from Condition B.1(a).

"Waters of the state" include "underground water." (ORC 6111.01(H)) "If the director approves an application for a renewal permit, he will issue the permit upon such terms and conditions as he finds are reasonable to ensure that continued operation, maintenance, closure, and post-closure care of the hazardous waste facility are conducted in accordance with Chapter 3734. of the Revised Code and the hazardous waste rules, **and such additional terms and conditions he determines are**

JAN 29 2014

necessary to protect human health and the environment. (OAC Rule 3745-50-40(D)(6)) [Emphasis added.]

The comment correctly notes that “ground water” is not specifically identified as an environmental medium to be protected in OAC Rule 3745-54-31. However, the Director can rely upon OAC Rule 3745-50-40(D)(6) to ensure that a hazardous waste facility is operated to minimize the potential for releases to all waters of the state including ground water. Draft Condition B.1(a) is essentially identical to Condition B.1(a) in RIS’ current permit.

No changes were made in response to this comment.

RIS Comment No.:	4
Location in Draft Renewal Permit:	Module B, Condition B.14(b), Implementation of Contingency Plan
RIS Potential Concern(s):	Not consistent with current Permit and Contingency Plan
RIS Recommended Follow Up Action(s):	Reinsert reference as suggested

Ohio EPA Response:

This comment objects that the words “Any explosion” in draft Condition B.14(b) are not qualified by the words “as defined in Table G-2 in Section G of the permit application” and therefore the draft condition differs significantly from RIS’ existing Permit Condition B.14(b).

Omission of the words “as defined in Table G-2 in Section G of the permit application” was an oversight. The opening words of Condition B.14(b) have been revised to read:

“Any explosion as defined in Table G-2 in Section G of the permit application involving hazardous waste, except that implementation is not required for. . .”

RIS Comment No.:	5
Location in Draft Renewal Permit:	Module B, Condition B.17 Amendments to Plan
RIS Potential Concern(s):	Language not founded in regulation
RIS Recommended Follow Up Action(s):	Remove language that is not required by regulation

JAN 29 2014

Ohio EPA Response:

This comment requests that the draft permit requirement that the permittee review the contingency plan at least annually be removed from draft Condition B.17 because "at least annually" does not appear in OAC Rule 3745-54-54 which is referenced by this condition.

The comment correctly notes that "at least annually" does not appear in OAC Rule 3745-54-54. However, the Director can rely upon OAC Rule 3745-50-40(D)(6) to ensure that a hazardous waste facility maintains a current contingency plan through annual reviews of the plan. The "at least annually" requirement is standard language that is now applied to all hazardous waste permits. It is not unreasonable or burdensome for the permittee to conduct an annual review of the contingency plan.

No changes were made in response to this comment.

RIS Comment No.:	6
Location in Draft Renewal Permit:	Module B, Condition B.35 General Post-Closure Requirements
RIS Potential Concern(s):	Redundant language found in both Condition B.35(d); and Conditions F.4(a), F.4(b), and F.4(c)
RIS Recommended Follow Up Action(s):	Remove redundant language from Module B.35(d) to provide consistency within the permit

Ohio EPA Response:

This comment notes that language that appears in draft Condition B.35(d) and Condition F.4 (including Conditions F.4(a), F.4(b) and F.4(c)) pertaining to post-closure requirements appears to be redundant and that while apparently consistent, having this information in two locations can be confusing as well as make the potential permit modification process unnecessarily complicated. The comment proposes removing Condition B.35(d) in its entirety.

The Agency agrees that the language cited is duplicative. However, it does not appear to be inconsistent. In the unlikely event that these conditions are modified a modest amount of additional work could be required to avoid inconsistencies. Because these conditions as proposed are not likely to impose any significant burden on the permittee, no changes have been made to the permit in response to this comment.

OHIO EPA - DMMW
JAN 29 2014

RIS Comment No.: 7
Location in Draft Renewal Permit: Module B, Condition B.35 General Post-Closure Requirements
RIS Potential Concern(s): Redundant language found in both Condition B.35(e) and Condition F.4(d)
RIS Recommended Follow Up Action(s): Remove redundant language from Condition B.35 to provide consistency within the permit

Ohio EPA Response:

This comment notes that language that appears in draft Condition B.35(e) and Condition F.4(d) pertaining to post-closure requirements, appears to be redundant and that while apparently consistent, having this information in two locations can be confusing as well as make the potential permit modification process unnecessarily complicated. The comment proposes removing Condition B.35(e) in its entirety.

The Agency agrees that the language cited is duplicative. However, it does not appear to be inconsistent. In the unlikely event that these conditions are modified a modest amount of additional work could be required to avoid inconsistencies. Because these conditions as proposed are not likely to impose any significant burden on the permittee, no changes have been made to the permit in response to this comment.

RIS Comment No.: 8
Location in Draft Renewal Permit: Module B, Condition B.37 Financial Assurance for Facility Closure and Post-Closure
RIS Potential Concern(s): Redundant language found in both Condition B.37 and Condition F.5
RIS Recommended Follow Up Action(s): Modify to language in B.37 and remove language from F.5 to provide consistency within the permit

Ohio EPA Response:

JAN 29 2014

This comment notes that language that appears in draft Condition B.37 and Condition F.5 pertaining to post-closure requirements appears to be redundant and that while apparently consistent, having this information in two locations can be confusing as well as make the potential permit modification process unnecessarily complicated. The comment proposes revising Condition B.37 and deleting Condition F.5:

The Agency agrees that the language cited is duplicative. However, it does not appear to be inconsistent. In the unlikely event that these conditions are modified a modest amount of additional work could be required to avoid inconsistencies. Because these conditions as proposed are not likely to impose any significant burden on the permittee, no changes have been made to the permit in response to this comment.

RIS Comment No.:	9
Location in Draft Renewal Permit:	Module C, Conditions C.7(c), (d) & (e), Containment Systems
RIS Potential Concern(s):	Not consistent with the regulations
RIS Recommended Follow Up Action(s):	Change condition as suggested

Ohio EPA Response:

This comment states that draft Conditions C.7(c), (d) & (e) are a rewording and consolidation of the language within OAC Rule 3745-55-75(B)(2), (3) and (4) – *for container storage areas holding hazardous wastes with free liquids* and OAC Rule 3745-55-75(C)(1) and (2) – *for container storage areas holding hazardous wastes without free liquids*. The comment further states that combining the requirements is not consistent with the above regulations and could lead to an incorrect interpretation of the requirements applicable to hazardous waste with and/or without free liquids. The comment includes suggested revised language (with new text underlined and removed text struck-through), as follows:

- “(c) For units storing wastes with free liquids, the base must be sloped or the containment system must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;
- (d) For units storing wastes with free liquids, run-on into the containment system must be prevented unless the collection system has sufficient excess capacity in addition to that required in Condition C.7(b) above to contain any run-on which might enter the system; ~~For units only storing wastes without free liquids, the units must be operated to drain or remove liquid resulting from~~

JAN 29 2014

~~precipitation in a timely manner to prevent overflowing of the containment system.~~

- (e) For units storing wastes with free liquids, spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in as timely a manner as is necessary to prevent overflow of the collection system; in a timely manner and in accordance with the procedures and practices specified in Section D of the permit application.
- (f) Unchanged.
- (g) Storage areas that store containers holding only wastes that do not contain free liquids need not have a containment system described in Conditions C.7(b), (c), (d) & (e) above, provided that:
 - (i) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation;
 - (ii) The containers are elevated or are otherwise protected from contact with accumulated liquid."

To improve clarity of applicable requirements for the container storage areas, the proposed replacement language has been largely accepted, except that draft Condition C.7(e) has not been revised and the reference to Condition C.7(e) in Condition C.7(g) is not included in the permit. Condition C.7(e) continues to read:

- (e) Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in a timely manner and in accordance with the procedures and practices specified in Section D of the permit application.

Condition C.7(e) is essentially a restatement of Condition C.6(c) in RIS' current permit. "Spilled or leaked waste and accumulated precipitation must be removed from the sump or collection area in a timely manner" is standard language in Ohio permits regarding removal of the mentioned materials in areas storing containers of wastes with free liquids. Released wastes could be toxic, corrosive and/or pose other risks to human health and the environment, so they must be removed in a timely manner and not allowed to accumulate to the point of overflowing the containment system. Similar rationale applies to removal of any release of wastes without free liquids. Inclusion of "and in accordance with the procedures and practices specified in Section D of the permit application" incorporates into the permit language in RIS' renewal permit application regarding removal of precipitation, spills and leaks in the various container waste storage areas.

RIS Comment No.:
Location in Draft Renewal Permit:

10
Module D, Condition D.6(f), Inspection Schedules and Procedures

JAN 29 2014

RIS Potential Concern(s): **Not consistent with current Permit or application**

RIS Recommended Follow Up Action(s): **Change condition as suggested**

Ohio EPA Response:

This comment objects to inclusion of the words "and Table D5-3" as an identifier of permitted hazardous waste tanks subject to minimum metal thickness requirements in draft Condition D.6(f). The comment notes that the equivalent condition to Condition D.6(f) in RIS' current Permit does not include a reference to Table D5-3 and that Tank 79 (Surge Tank) is the only permitted hazardous waste tank listed in Table D5-3.

The comment requests that draft Condition D.6(f) be modified by adding the words "(for Tank 79 only)" after the reference to Table D5-3 and "(for Tanks 23 through 64, 67, 68, 70, 73, 74 and 75)" after the reference to Tables D2-2 through D2-8. The addition of "(for Tanks 23 through 64, 67, 68, 70, 73, 74 and 75)" after Tables D2-2 through D2-8 has no substantive effect and merely serves as clarification, as these tanks are the only tanks that those tables refer to.

The Agency's intent in including the reference to Table D5-3 was to include Tank 79. Inclusion of a potential reference to other tanks was unintended. Therefore Condition D.6(f) has been modified by adding "(for Tank 79 only)" after the reference to Table D5-3 and adding "(for Tanks 23 through 64, 67, 68, 70, 73, 74 and 75)" after the reference to Tables D2-2 through D2-8 so that it reads as follows:

"The Permittee must immediately remove from service any tank with a wall thickness, as determined from UT thickness testing or internal inspection, that is less than the design minimum wall thickness for the top, shell or bottom of the tank. The applicable design minimum wall thickness for the tank corrosion monitoring program is: the value specified in Tables D2-2 through D2-8 (for Tanks 23 through 64, 67, 68, 70, 73, 74 and 75) and Table D5-3 (for Tank 79 only) in the application for the minimum design top thickness, minimum design shell thickness, and minimum design bottom thickness, respectively."

RIS Comment No.: 11
Location in Draft Renewal Permit: Module D, Condition D.7(c), Response to Leaks or Spills
RIS Potential Concern(s): Not consistent with regulations
RIS Recommended Follow Up Action(s): Change condition as suggested

Ohio EPA Response:

JAN 29 2014

This comment objects to the words “independent” and “registered” in the phrase “independent, qualified, registered professional engineer” in draft Condition D.7(c) on the basis that these words have been removed from the referenced regulation, OAC Rule 3745-55-96(F). The comment also objects to the examples of major repairs in the draft condition because they are not identical to those in OAC Rule 3745-55-96(F).

The Agency agrees that the reference to an “independent, qualified, registered professional engineer” should be replaced with “qualified professional engineer” since OAC Rule 3745-55-96(F) refers to “qualified professional engineer.”

The portion of the comment that requests that the list of examples of major repairs in the condition be identical to those in the referenced regulation is not persuasive. It is a list of possible situations that could constitute major repairs; it is not intended or presented as an all-inclusive list of possible situations that could constitute major repairs. All the examples on the list are repairs that the Agency could classify as major repairs. No change was made to the example list in the condition in response to that portion of the comment.

Condition D.7(c) has been modified by replacing “an independent, qualified, registered professional engineer” with “a qualified professional engineer” so that it now reads:

“For all major repairs (e.g., installation of an internal liner, repair of a ruptured tank, or repair or replacement of a secondary containment vault) to eliminate leaks or restore the integrity of the tank system, the Permittee must obtain a certification by a qualified, professional engineer in accordance with OAC Rule 3745-50-42(D)(1) that the repaired system is capable of handling hazardous wastes without release for the intended life of the system before returning the system to service. This certification must be submitted to the Director within seven days after returning the tank system to use.”

RIS Comment No.:	12
Location in Draft Renewal Permit:	Module D, Condition D.11(a), Special Tank Provisions for Incompatible Wastes
RIS Potential Concern(s):	Not consistent with regulations
RIS Recommended Follow Up Action(s):	Change condition as suggested

Ohio EPA Response:

JAN 29 2014

This comment objects to inclusion of the words "or the same secondary containment system" in the following portion of draft Condition D.11(a):

"The Permittee must not place incompatible wastes, or incompatible wastes and materials, in the same tank system or the same secondary containment system, unless the procedures specified in the permit application are followed. . ."

The comment notes that:

- Referenced OAC Rule 3745-55-99(A) does not include the words "or the same secondary containment system";
- OAC Rule 3745-50-10(A)(122), defines "tank system" as meaning: "a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system"; and,
- Therefore inclusion of "or the same secondary containment system" in Condition D.11(a) is redundant and unnecessary since "tank system" by definition already incorporates the containment system.

The comment requests that the first sentence of Condition D.11(a) be modified to better mirror OAC Rule 3745-55-99(A) by removing the words "or the same secondary containment system".

The Agency agrees that the language cited in the comment could be duplicative. However, it does not appear to be inconsistent nor does it impose any significant burden on the permittee. Consequently, no changes have been made to the permit in response to this comment.

RIS Comment No.:	13
Location in Draft Renewal Permit:	Module E, Condition E.5 RCRA Facility Investigation (RFI)
RIS Potential Concern(s):	Two Phase III sampling events are not discussed
RIS Recommended Follow Up Action(s):	Revise the language to include a discussion of the two omitted sampling events

Ohio EPA Response:

This comment requests that two sampling events, performed by RIS as part of Phase III of the RFI, be added to draft Condition E.5. Condition E.5 includes a historical overview which summarizes corrective action activities at RIS; not all events in the corrective action program can be included. However, in the interest of clarity, Condition E.5

following the text that reads "In response to Ohio EPA comments, revisions to the RAAD were submitted by RIS in 2005 and 2006. By letter dated March 27, 2006, Ohio EPA approved the RAAD as modified and with conditions." has been revised to include the following:

"Subsequent to RAAD approval, RIS conducted limited focused sampling of surface soil on the North Landfill and ground water in wells MW-29 and MW-31A. The resultant data were validated and submitted to the Ohio EPA in the RFI Report."

RIS Comment No.:	14
Location in Draft Renewal Permit:	Module E, Condition E.5 RCRA Facility Investigation (RFI)
RIS Potential Concern(s):	Discussion of Statement of Basis in which Ohio EPA may propose implementation of Corrective Measures
RIS Recommended Follow Up Action(s):	Proposed language should not appear in the Part B Permit. Revise as recommended.

Ohio EPA Response:

This comment objects to inclusion of the last paragraph of the Historical Overview in draft Condition E.5 which discusses the draft Statement of Basis. The comment requests that Ohio EPA not muddy the permit renewal process by inclusion of or reference to the Statement of Basis. The comment further states that there is an administrative process, the Director's Initiated Permit Modification ("DIPM"), that Ohio EPA has already developed for merging the Statement of Basis and a permit and that RIS encourages Ohio EPA to continue along the DIPM process and requests that the last paragraph of the Historical Overview module be deleted in its entirety.

The portion of Condition E.5 to which this comment is directed is a historical overview which summarizes corrective action at RIS. The intent of the final paragraph was to bring the historical narrative up to the present and project the corrective action process into the near future. To avoid potential for misunderstanding the Statement of Basis process, the following language has been deleted from Condition E.5:

"As of the date of issuance of this permit, Ohio EPA is working on a draft Statement of Basis that is expected to propose that the Permittee implement additional corrective measures to further control risks identified in the RFI Report."

OHIO EPA - DMWM
JAN 29 2014

RIS Comment No.: 15
Location in Draft Renewal Permit: Module E, Condition E.5 - RCRA Facility Investigation (RFI)
RIS Potential Concern(s): Reference to applicable Modules of the Part B Permit
RIS Recommended Follow Up Action(s): Revise language as recommended

Ohio EPA Response:

This comment notes that language that appears in Condition E.5 within the first two paragraphs of the section entitled "*Newly Discovered Waste Management Units*" contains redundant information and proposes that the redundant language be removed.

Inclusion of essentially identical language in two consecutive paragraphs was an oversight. This section of Condition E.5 has been revised to read as follows:

"Newly Discovered Waste Management Units

In the event of a newly discovered unit, the Permittee must conduct an RFI to thoroughly evaluate the nature and extent of the release of hazardous wastes and hazardous constituents from any newly identified unit pursuant to Permit Conditions E.10 and E.11. The major tasks and required submittal dates are shown below. The scope of work for each of the tasks is found in U.S. EPA's CAP."

RIS Comment No.: 16
Location in Draft Renewal Permit: Module E, Condition E.7.a - Schedule of Compliance
RIS Potential Concern(s): No Schedule of Compliance appears in the Part B Permit
RIS Recommended Follow Up Action(s): Revise as recommended

Ohio EPA Response:

This comment notes that draft Condition E.7(a) refers to the Schedule of Compliance, which appears as Condition A.27, but that no Corrective Action tasks are listed in

JAN 29 2014

Condition A.27. The comment contends that therefore the reference to a Schedule of Compliance is inappropriate and should be deleted.

The comment is correct that currently there are no Corrective Action tasks in Condition A.27; however, such tasks could be added in the future. To preserve the flexibility for such tasks to be added to Condition A.27 without modifying Condition E.7(a) and because Condition E.7(a) as drafted is not likely to impose any significant burden on the Permittee, no changes have been made in response to this comment.

RIS Comment No.:	17
Location in Draft Renewal Permit:	Module E, Condition E.9 Corrective Measures Implementation
RIS Potential Concern(s):	Discussion of Statement of Basis in which Ohio EPA may propose implementation of Corrective Measures
RIS Recommended Follow Up Action(s):	Proposed language should not appear in the Part B Permit. Revise as recommended.

Ohio EPA Response:

This comment objects to inclusion of the last paragraph at the end of the opening section in draft Condition E.9 which discusses the draft Statement of Basis. The comment requests that Ohio EPA not muddy the permit renewal process by inclusion of or reference to the Statement of Basis. The comment further states that there is an administrative process, the Director's Initiated Permit Modification ("DIPM"), that Ohio EPA has already developed for merging the Statement of Basis and a permit and that RIS encourages Ohio EPA to continue along the DIPM process and requests that the last paragraph at the end of the opening section in Condition E.9 be deleted in its entirety.

The intent of the last paragraph was to identify the likely next step in the corrective action process and to clarify a potential ambiguity on the issue of whether a corrective action implementation study is required before Ohio EPA can initiate a permit modification pursuant to Condition E.9(a). If the last paragraph is struck without substitute language, this ambiguity would be introduced into Condition E.9. To avoid the creation of such ambiguity, Ohio EPA has prepared substitute language.

In response to the comment, Condition E.9 has been revised by striking the last paragraph at the end of the opening section and replacing it with the following:

JAN 29 2014

"Prior to requiring implementation of any corrective measures, Ohio EPA may require the Permittee to complete a corrective measures study pursuant to Condition E.8 or Ohio EPA may identify, based on the results of the RFI and any other relevant information, corrective measures it believes appropriate and prepare a draft Statement of Basis and a proposed Director's Initiated Permit Modification for such corrective measures."

RIS Comment No.:	18
Location in Draft Renewal Permit:	Condition E.13, Documents Requiring Professional Engineer Stamp
RIS Potential Concern(s):	Ohio EPA Authority
RIS Recommended Follow Up Action(s):	Remove language pertaining to Professional Engineer's Stamp

Ohio EPA Response:

The comment alleges that draft Condition E.13 goes beyond Ohio EPA's regulatory authority, namely that applicable regulations do not specify that completion of specific tasks within the Corrective Action program require a Professional Engineer's Certification. The comment proposes that the language in E.13 be removed in its entirety.

In accordance with OAC Rule 3745-54-101, the owner or operator of a facility... must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any waste management unit at the facility... ORC Section 4733.01(D) states, "The practice of engineering" includes any professional service, such as consultation, investigation, evaluation, planning, design, or inspection of construction or operation for the purpose of assuring compliance with drawings or specifications in connection with any public or privately owned public utilities, structures, buildings, machines, equipment, processes, works, or projects in the proper rendering of which the qualifications of section 4733.11 of the Revised Code are required to protect the public welfare or to safeguard life, health, or property.

Ohio EPA believes that preparation of any of the documents listed in Condition E.13, which are often required in the corrective action process, constitutes the "practice of engineering." It is appropriate for Ohio EPA to specify documents the preparation of which it considers to constitute the "practice of engineering" and for which it intends to require a professional engineer's stamp prior to submittal to the Agency. This condition is consistent with those in other Ohio permits.

No changes were made to the permit as a result of this comment.

JAN 29 2014

RIS Comment No.:	19
Location in Draft Renewal Permit:	Condition F.2, Post-Closure Care
RIS Potential Concern(s):	Time for post-closure groundwater monitoring and post-closure care
RIS Recommended Follow Up Action(s):	Revise post-closure time language to reference the date of closure certification

Ohio EPA Response:

This comment proposes revising draft Condition F.2(a) so that the language which states that post-closure care is "to begin after completion of closure of the unit..." would be replaced with "to begin on the date of Closure Certification of the unit..."

OAC Rule 3745-55-17(A) which is referenced in Condition F.2 states "Post-closure care for each hazardous waste management unit subject to the requirements of rules 3745-55-17 to 3745-55-20 of the Administrative Code must begin after completion of closure of the unit..."

Condition F.2 language which states that post-closure care is "to begin after completion of closure of the unit" is an accurate reflection of OAC Rule 3745-55-17(A) requirements. No changes were made in response to this comment.

RIS Comment No.:	20
Location in Draft Renewal Permit:	Module G, Condition G.7(a), Inspections
RIS Potential Concern(s):	Unnecessarily burdensome
RIS Recommended Follow Up Action(s):	Change condition as suggested

Ohio EPA Response:

This comment proposes revising the daily inspection schedule language for the filter press system in draft Condition G.7(a) by replacing the words "in accordance with OAC Rule 3745-55-95 and Pages 26 and 27 of 49 of Appendix F-2" with "in accordance with OAC Rule 3745-55-95 and the filter press daily inspection schedule within Appendix F-2."

JAN 29 2014

The comment states that identifying the specific page numbers within Appendix F-2 in draft Condition G.7(a) is cumbersome and unnecessary, does little to insure compliance, and may increase the possibility of administrative errors in the future should modifications be made to Appendix F-2.

In the unlikely event that this condition is modified a modest amount of additional work could be required to avoid inconsistencies. Because the condition as proposed is not likely to impose any significant burden on the permittee, no changes have been made to the permit in response to this comment.

RIS Comment No.:	21
Location in Draft Renewal Permit:	Module J, Groundwater Monitoring Discussion of Statement of Basis in which Ohio EPA may propose implementation of Corrective Measures
RIS Potential Concern(s):	Proposed language should not appear in the permit.
RIS Recommended Follow Up Action(s):	Revise as recommended

Ohio EPA Response:

This comment objects to inclusion of the second paragraph of the opening section of draft Module J which discusses the draft Statement of Basis. The comment requests that Ohio EPA not muddy the permit renewal process by inclusion of or reference to the Statement of Basis. The comment further states that there is an administrative process, the Director's Initiated Permit Modification ("DIPM"), that Ohio EPA has already developed for merging the Statement of Basis and a permit and that RIS encourages Ohio EPA to continue along the DIPM process and requests that the last paragraph at the end of the Historical Overview module be deleted in its entirety.

The intent of the second paragraph was to bring the status of the RIS ground water program up to the present and project into the near future. To avoid potential for misunderstanding the Statement of Basis process, the following language has been deleted from the opening section of Module J (i.e., the second paragraph of Module J):

"At the time of issuance of this permit, Ohio EPA is preparing a draft Statement of Basis for corrective measures pursuant to the corrective action program. The draft Statement of Basis is expected to propose significant changes to the Permittee's ground water monitoring program."

JAN 29 2014

RIS Comment No.:	22
Location in Draft Renewal Permit:	Module J, Condition J.3(a).
RIS Potential Concern(s):	Berea Sandstone and Shallow Till Zone are incorrectly represented together as the area's upper-most aquifer
RIS Recommended Follow Up Action(s):	Revise language to represent Berea Sandstone Aquifer as upper-most aquifer

Ohio EPA Response:

This comment objects to language in Condition J.3(a) which states that ground water samples are to be taken from the Berea Sandstone and the Shallow Till Zone which together constitute the uppermost aquifer. The comment contends that within Lorain County (and at the RIS facility), the Berea Sandstone aquifer is considered the uppermost aquifer and therefore, it is inappropriate for the upper-most aquifer to be represented as a combination of the Berea Sandstone aquifer and the Shallow Till Zone. The comment proposes that the language in Condition J.3(a) be revised by replacing "samples from the Berea Sandstone and the Shallow Till Zone which together constitute the uppermost aquifer" with "samples from the Berea Sandstone Aquifer and Shallow Till Zone."

The Berea Sandstone/buried valley deposits and the overlying glacial till are separated by 10 feet or more of lacustrine clay that appears to effectively separate the two water-bearing zones.

Condition J.3(a).has been modified to read in part,

"The Permittee's ground water monitoring system must consist of a sufficient number of wells, installed and screened at appropriate locations and depths, to yield ground water samples from the Berea Sandstone Aquifer and Shallow Till Zone."

RIS Comment No.:	23
Location in Draft Renewal Permit:	Module J, Condition J.6 Sampling Frequency
RIS Potential Concern(s):	Incorrect reference to the hazardous constituents list in permit

“The Permittee must use the following statistical procedures in evaluating ground water monitoring results for each hazardous constituent in Permit Condition J.9(b) in each well in Permit Condition J.3(b) to identify statistically significant evidence of contamination, and/or the exceedance of a concentration limit:”

RIS Comment No.: 25
Location in Draft Renewal Permit: Module J, Condition J.7(b)(i)
RIS Potential Concern(s): Incorrect reference to the hazardous constituents list in permit
RIS Recommended Follow Up Action(s): Revise reference to list of constituents

Ohio EPA Response:

This comment states that draft Condition J.7(b)(i) incorrectly refers to Conditions J.2(a) or J.9(a) for the ground water constituents to be analyzed when the list of constituents is actually found in Condition J.9(b). The comment proposes that Condition J.7(b)(i) be revised to refer to “Permit Condition J.9(b)” instead of “Permit Conditions J.2(a) or J.9(a)”.

The Agency agrees with this comment. Permit Condition J.7(b)(i) has been revised to read as follows:

- “(i) The statistical evaluation of ground water monitoring data must be conducted separately for each hazardous constituent specified in Permit Condition J.9(b) in each well.”

RIS Comment No.: 26
Location in Draft Renewal Permit: Module J, Condition J.7(b)(iv)
RIS Potential Concern(s): Improper reference to control chart approach
RIS Recommended Follow Up Action(s): Remove Condition J.7(b)(iv)

Ohio EPA Response:

This comment states that RIS currently uses statistical evaluations to evaluate its groundwater data and that RIS does not use a control chart approach to evaluate such data. The comment requests draft Condition J.7(b)(iv) be removed in its entirety because

OHIO EPA - DM/MM
JAN 29 2014

it states:

- “(iv) If a control chart approach is used, the specific type of control chart and its associated parameter values must be proposed by the Permittee and approved in the permit.”

Currently RIS does not use a control chart approach to evaluate ground water data. Although the condition as proposed was not likely to impose any significant burden on the permittee, to avoid the potential for confusion the language in draft Condition J.7(b)(iv) has been removed and replaced with the word “Reserved.”

RIS Comment No.:	27
Location in Draft Renewal Permit:	Module J, Condition J.7(b)(v)
RIS Potential Concern(s):	Improper reference to tolerance or prediction interval procedure
RIS Recommended Follow Up Action(s):	Remove Condition J.7(b)(v)

Ohio EPA Response:

This comment states that RIS currently uses statistical evaluations to evaluate its groundwater data and that RIS does not use a tolerance or prediction interval procedure. The comment requests draft Condition J.7(b)(v) be removed in its entirety because it states:

- “(v) If a tolerance or prediction interval procedure is used, the levels of confidence and, for tolerance intervals, the percentage of the population that the interval must contain, must be proposed by the Permittee and approved in the permit. These parameters must be determined after considering the number of samples in the background data base, the data distribution, and the range of concentration values for each constituent of concern.”

Currently RIS does not use a tolerance or prediction interval procedure to evaluate ground water data. Although the condition as proposed was not likely to impose any significant burden on the permittee, to avoid the potential for confusion the language in draft Condition J.7(b)(v) has been removed and replaced with the word “Reserved.”

End of Response to Comments