

**ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY
RESPONSE TO PUBLIC COMMENTS
VEOLIA ES TECHNICAL SOLUTIONS L.L.C. (VES)
HAZARDOUS WASTE STORAGE PERMIT
DECEMBER 12, 2006**

Note: The Arizona Administrative Code (A.A.C.) R18-8-271.O (40 CFR 124.17) requires ADEQ to respond to all "significant comments" submitted within the public comment period for the draft permit. As follows are comments submitted to ADEQ (in boldface) and the ADEQ responses (not in boldface).

1. COMMENT: I ask the following question as a retired dentist who became aware in 1983 of the potential dangers of mercury vapor, both to dentist and patient, when mixing, placing, chewing on, or removal of mercury-silver amalgam “fillings”. Once ingested, mercury which reaches lipid-fat tissue has a “half-life” of 25 years (i.e. only half of the mercury is excreted in 25 years). As you probably already know, mercury crosses the blood-brain barrier and can be stored in the lipid tissues of the brain, where, depending on concentration and individual sensitivity, it can have a variety of negative effects on cognitive and/or motor functions. Regarding the proposed permit for Veolia ES Technical Solutions, LLC (VES) Draft Permit for Hazardous Waste Storage, do the current regulations and/or the proposed permit conditions require periodic testing of mercury concentrations in the air at or near the property boundaries of the facility? It seems to me that such monitoring, and/or monitoring of mercury containment equipment, might be a reasonable precaution.

RESPONSE: ADEQ agrees that the possibility of mercury exposure is a cause for concern at VES. Considering the variety of waste management activities at the facility, ADEQ believes that exposure would most likely be through inhalation of mercury vapor. ADEQ agrees that safeguards are necessary to minimize this form of exposure. ADEQ also agrees that the monitoring of mercury emissions at the facility is a prudent requirement. The hazardous waste permit requires these safeguards.

VES has been issued an air quality permit from the Maricopa County Air Quality Department. That permit imposes limits on the emissions of mercury at the facility. In order to comply with those limits as well as hazardous waste requirements, VES has implemented a number of safeguards. These safeguards serve to both minimize these emissions and to remove the residual mercury from the workplace. Details of these safeguards include:

- i. Establishment of a hazardous waste training program. This includes worker training of the hazards of mercury, procedures for proper container storage and stacking, and training on proper waste handling;
- ii. Required use of respiratory protection by workers in the mercury processing areas;
- iii. Use of environmental controls for the hazardous waste facility. The following controls are used to minimize the hazard associated with handling of mercury-containing waste:
 - a. Closed and secured containers: All mercury-containing items are within secure containers, and are stored within a building or secured shelter so as to minimize accidental release;

- b. Response to spills: In event of a spill, a Mercury Recovery Vacuum or similar device is used to contain and clean up the spill. If a drum, box or other container holding lamp waste is observed to be in questionable condition (severe rusting, suspected structural weakness, etc.) or begins to leak, VES will transfer the contents to an approved container in good condition;
 - c. Emissions venting: Shipping containers are opened in an exhausted (negative pressure) space;
 - d. Emissions treatment: VES is required to treat the air vented from the processing areas in the building through a series of carbon filters so as to recover mercury prior to release to the atmosphere;
 - e. Stack monitoring: VES is required to monitor mercury vapor concentrations in the air discharged to the atmosphere on a daily basis;
 - f. Exposure monitoring: VES verifies the effectiveness of their environmental safeguards through the use of onsite air monitoring in all process and storage areas and through the use of personnel monitoring canisters;
- iv. Upon power failure, a backup generator is used to maintain proper ventilation within the work environment. Also, a standby stored-air compressed air system causes diaphragm valves to seal the system to prevent release of mercury vapor;
- v. The hazardous waste storage building is inspected weekly for containers that may be deteriorated. Loading, unloading, and process areas (or other areas subject to spills) are inspected daily when in use. In addition to storage areas 1, 2, and 3, and the items listed on the Safety Inspections and Audit forms included in the draft permit, VES inspects their monitoring equipment on a weekly basis to ensure that they are functioning properly. The monitors are gauged and inspected by the manufacturer on annual basis. Air handling equipment in Building 1 is inspected weekly to ensure that the carbon filter treatment system does not exhibit break through.

VES reduces both stack and fugitive mercury emissions at their emissions sources, they monitor these emissions with instruments sensitive to mercury, and they inspect and calibrate these instruments on a regular basis. These safeguards in the facility result in ambient mercury concentrations at the fence line which are protective of human health.

No change was made to the Permit as a result of this comment.

2. COMMENT: Waste Receiving Area Building 2 was not identified as a Solid Waste Management Unit (SWMU) or an Area of Concern (AOC) during the RCRA Facility Assessment. This should be corrected, based upon the significant potential for spills and releases of hazardous waste and hazardous constituents in this area. This may be accomplished by ADEQ requiring VES to address the potential release in a site assessment plan.

RESPONSE: ADEQ agrees that this area could, in the future, be classified as a SWMU if a release is either reported to ADEQ by the permittee or is noted and confirmed by ADEQ following an

inspection. Under EPA corrective action rules and guidance, a SWMU is defined as “Any discernable waste management unit at a RCRA facility from which hazardous constituents might migrate, irrespective of whether the unit was intended for the management of solid and/or hazardous waste.” A SWMU encompasses, “containers, tanks, surface impoundments, waste piles, land treatment units, landfills, incinerators, and underground injection wells, including those units defined as ‘regulated units’ under RCRA,” of which “recycling units, wastewater treatment units, and other units which EPA has generally exempt from standards applicable to hazardous waste management units” are included. Areas contaminated by “routine, systematic and deliberate discharges from the process areas” are included in the definition (however, “accidental spills from production areas and units in which wastes have not been managed” are not). Thus, since this area is an accumulation area for containers of hazardous waste, this site would become a SWMU in the future if a release is noted.

ADEQ notes that hazardous waste rules and the Permit require several measures to decrease the likelihood of waste migration. i.) all spills in this area (and others) are required to be immediately addressed, ii.) the floor of the building consists of sealed concrete, minimizing the chance of migration through cracks and gaps, iii.) the area is bermed to prevent run-off outside of the building, and iv.) containers of mercury-containing waste (both hazardous waste and universal waste) are typically not opened in the receiving area, (they are usually opened in exhausted /negative pressure areas so that any vapors would be vented to the air treatment system prior to release to the atmosphere).

ADEQ has not observed any evidence of release specifically from the receiving area during its site inspections. However, ADEQ will continue to inspect the receiving area for violations during site inspections. If evidence of a release is observed or any changes occur within the area that might increase the risk of a release, ADEQ may require implementation of the corrective action portion of the Permit, Section IV, for further investigation.

No change was made to the Permit as a result of this comment.

3. COMMENT: The potential exists for releases and spills to occur in Waste Receiving Area Building 2 and for these releases to also impact the environment. However, this section of the building is not identified in the facility Closure Plan as an area that will undergo sampling and decontamination during the facility closure process. This area should be fully addressed prior to finalizing the Part B Permit.

RESPONSE: ADEQ agrees that the potential exists for spills to occur in Waste Receiving Area Building 2. Facility operators have minimized the environmental consequences of spills by taking the following precautions: the concrete receiving area has been sealed with a suitable coating, the dry wells in the truck wells have been filled (March 9, 1999 and May 9, 2000), and berms have been installed to the north and south of the receiving area between Buildings A and B. ADEQ believes that it is unlikely that current operations within Building 2 will result in releases to soil, ground water, or surface water. Lastly, Building 2 is covered in the EPA Toxic Substances Control Act permit for the facility. The TSCA permit requires that VES maintain a plan and financial assurance that covers closure of Building 2.

Although spills within Building 2 will be adequately controlled, ADEQ believes that spills outside of the storage and processing buildings present some risk of waste migration. The permit requires VES to notify ADEQ of spills outside of waste containment areas. Spills in these areas and any spills noted in ADEQ facility inspections may result in implementation of corrective action provisions of the permit, such as Section IV.L - Site Assessment and Remedy.

No change was made to the Permit as a result of this comment.

4. COMMENT: These closure cost estimates may not be adequate since the closure of Building 2 Waste Receiving Area is not included in the Closure Plan. Revise the cost estimates to include the Building 2 Waste Receiving Area.

RESPONSE: Closure of Building 2 is covered under the federal TSCA Permit for storage of PCBs. That permit also provides for separate closure costs.

Although Building 2 closure is addressed by the federal permit, corrective action may still apply in some circumstances, especially if hazardous constituents remain following a spill of solid or hazardous waste. If the contamination is extensive or if the remedy is complex then ADEQ may require financial assurance to cover the costs of the remedy. For example, most corrective actions requiring the submittal of a CMI (Corrective Measures Implementation) plan is complex enough to warrant financial assurance. A CMI plan has sufficient detail to permit an adequate cost estimate.

If contamination remaining at a SWMU is not extensive and/or if the remedy is relatively simple then the corrective action would best be addressed by following the provisions of "Site Assessment and Remedy" in the Permit. In this case, requiring a detailed cost estimate and the establishment of financial assurance for the remedy would not be practical.

No change was made to the Permit as a result of this comment.

5. COMMENT: City of Phoenix Zoning Ordinance, Planning Department Staff Report Z-136-03-7 Stipulation #1, identifies that an increase of 10% or more in the storage capacity or volume of regulated waste materials (as identified in the September 2002 Compliance Agreement with the ADEQ), subjects the facility to review through the City of Phoenix Planning Hearing Officer process. As the draft permit is currently written, there is no increase in VES's waste storage capacity or volume of regulated waste allowed at the facility. Please be aware that the stipulation remains in effect and would require a City review if a storage capacity or volume increase were proposed in the future. We would appreciate you notifying this office should any changes to permit amounts be requested by VES.

RESPONSE: ADEQ agrees that such notification is necessary. The hazardous waste rules require a permittee to apply to ADEQ for a Class 2 permit modification for any request of an increase in capacity of up to 25 percent. Class 2 permit modifications require the permittee to send an informational notice of the request to all persons on ADEQ's facility mailing list. In addition, the permittee must publish a public notice in a major local newspaper within seven days of the request,

maintain a local information repository near the facility concerning the request, begin a public comment period of not less than 60 days, and hold a public meeting within the timeframe of the comment period. In addition, Arizona law (ARS §49-111) requires ADEQ to send its own notification to the appropriate county, city, or town following receipt of a significant modification to the permit. ADEQ interprets this provision to require a separate agency notice for any Class 2 [moderate] and Class 3 [major] permit modifications (but it doesn't require a notice for Class 1 [minor] permit modifications). Thus, ADEQ agrees that any such increase in capacity at VES requires that ADEQ notify the City of the change.

No change was made to the Permit as a result of this comment.

6. COMMENT: The area of Phoenix in which this facility is to operate is a densely populous urban setting, thus the effect of a release or fire involving mercury or other hazardous materials, especially during weekday business hours, could be devastating within this community. We believe that these activities would be better suited to an industrial park located in a rural setting outside the city, thus limiting the potential damage to persons and property should a release or fire occur at the facility.

RESPONSE: Hazardous waste rules limit the construction and operation of hazardous waste facilities in flood plains and seismically active areas. VES has demonstrated in its application, and ADEQ believes that the facility is located in accordance with these siting requirements.

The property was developed as the Westgate Industrial Center between 1984 and 1986. Mercury-containing lamps have been recycled at the location since 1995 (PCB waste processing has been conducted at this site before that time). In September 2002, VES received from the City of Phoenix a zoning approval for their current operations. In support of its application to the City, VES submitted an analysis of its impact on the community as a result of a fire or large spill at the facility. The submittal showed that VES would not cause any adverse impact on the community in these scenarios. The area in which VES is located is thus designated as A-1 (light industrial).

No change was made to the Permit as a result of this comment.

7. COMMENT: While it appears that emergency responders will be immediately notified of any significant chemical release or fire which may occur at the facility, no provisions exist within the permit for immediate notification of VES' neighbors, that such an event is taking place at the facility. VES should be required, as part of the Contingency Plan, contained in Attachment E of the Permit, to immediately notify all neighbors of any emergency at the facility, so as to allow personnel in these buildings to move to safety in an expeditious manner. Assuming emergency responders will also be notifying VES' neighbors of an emergency at the facility, this will create a redundancy in the system which would make personnel in surrounding facilities safer.

RESPONSE: In the event of a release or fire, VES is required to immediately notify the National Response Center, ADEQ, and the local authority orally, pursuant to hazardous waste rules and the

permit. These agencies have a duty to efficiently perform the role of assuring public safety, including notification and coordination of evacuation activities.

Once the appropriate emergency contacts have been made, VES's Emergency Coordinator(s) may then assist their own emergency response staff in directing or resolving any in-house issues related to suppressing or containing a release. Upon arrival of the emergency response authorities, VES may also assist them by providing information concerning the facility design and their material inventory

ADEQ believes it is essential for a single government entity to communicate directives to the public - this results in an effective response action. Ultimately, any decision to notify VES's neighbors or the community at large of a fire or release must be made by the local authority (City of Phoenix).

No change was made to the Permit as a result of this comment.

8. COMMENT: With regard to notification procedures, in Part IV (F) of the Permit, "NEWLY-DISCOVERED RELEASES AND THREATS TO HEALTH AND THE ENVIRONMENT," the Permit allows VES fifteen (15) days to report to ADEQ any release of hazardous waste discovered during the course of monitoring and testing, and seven (7) calendar days to report a current or potential threat to human health or the environment. We believe that these reporting guidelines are wholly inadequate.

RESPONSE: This section of the Permit contains requirements for Corrective Action, which typically refer to historical releases that are discovered during routine or investigative sampling and monitoring, not emergency conditions which would fall under the Contingency Plan. It specifically relates to activities including ground water monitoring, field investigation, environmental auditing, or other activities undertaken after commencement of the RFI or the Site Assessment Plan (SP).

The fifteen day notification is required after a facility investigation is complete and an unexpected event is encountered (e.g., if, during routine monitoring, a new chemical, increased concentrations above applicable regulatory limits, etc., are discovered where they were not observed during past investigations). These types of testing and monitoring, and analysis are performed under non-emergency response situations. Thus, the 15 days are used to evaluate data and prepare a report pursuant to the Corrective Action requirements of the Permit. As stated in Part IV, Section F, of the Permit, if the newly discovered release is a current or potential threat to human health, then it requires immediate oral notification to the National Response Center, ADEQ, and the local authorities, and would then require adherence to the Contingency Plan.

As a result of this comment, ADEQ agrees to add a sentence in Permit Part IV, in the second paragraph of Section F.1 that, "In the event of a current or potential threat to human health or the environment, adherence to the Contingency Plan is required." In light of the above evaluation, ADEQ believes that the notification timeframes contained in the Permit are reasonable. ADEQ's basis for this change is conformance with R18-8-264 [40 CFR 264, Subpart D (Contingency Plan and Emergency Procedures)].

9. COMMENT: The primary problem with the notification specifications is the implementation time frames. Should any release occur, or any current or potential threat to human health or the environment occur, at the facility, VES should be required to immediately, or at the very least within twenty-four (24) hours of the discovery of the situation, report the release or contamination. (While Part I (E)(17) seems to require reporting of any dangerous noncompliance orally to the ADEQ Director within twenty-four (24) hours, Part IV (F) conflicts with this provision.) In addition, VES should be required to report the release or contamination not just to ADEQ, but, orally and in writing, to all neighbors of the facility within twenty-four (24) hours. Again, these provisions will create greater awareness of conditions at the facility by its neighbors and allow for personnel at surrounding facilities to move to safety should conditions warrant it.

RESPONSE: Please refer to the responses for comments #7 and #8 above.

No change was made to the Permit as a result of this comment.

10. COMMENT: We understand that significant monitoring and reporting controls are put into place under the guidelines established in the draft permit for operation of the facility. However, again, the reporting seems to be limited to ADEQ. In order to assure safe working conditions for its employees, our company, as well as any similarly situated neighbors, should be provided with a summary of testing and reported information from VES relating to hazardous conditions on a regular basis. Specifically, we request any record describing a release, contamination or fire issue at the facility, the annual Waste Management Performance Report, and any reports required by Part IV, "Corrective Action," of the Permit.

RESPONSE: There are several sources to check for such information:

- 1) Per hazardous waste rules, onsite monitoring information is maintained by VES and is available upon request by ADEQ. Site investigation workplans and reports may be submitted to ADEQ's waste management and water quality programs (e.g. hazardous waste compliance, hazardous waste permits, and aquifer protection programs) and are maintained in each programs' facility file. These documents are available for public review at the ADEQ Phoenix office at 1110 West Washington Street. They may be viewed from 8:30 am to 4:30 pm, Monday – Friday (excluding state holidays). To arrange an appointment to review these records, contact the ADEQ Records Center at (602) 771-4380.
- 2) State hazardous waste rules also require that VES submit an annual report to ADEQ by March 1 for waste generation operations for the preceding calendar year. Such information may be reviewed by contacting ADEQ's Facility Annual Report (FAR) Coordinator, Kathy Feliberty, at (602) 771-4214.
- 3) Site investigation workplans and reports may be available at the regional office of the Environmental Protection Agency, pursuant to the Toxic Substances Control Act (TSCA)

permit. For more information, please contact Chris Rollins of the EPA Region 9 Toxics Section at (415) 947-4166.

- 4) Historical Toxic Release Inventory information is available by contacting either ADEQ or the Arizona Department of Emergency and Military affairs (DEMA). The most recent (2005) submittals are available by contacting Bill Quinn of ADEQ's Pollution Prevention program at (602) 771-4203 or Dan Roe of DEMA at (602) 231-6345. Prior submittals are available online by going to www.epa.gov/tri and following the links to complete reports or reports on individual locations.
- 5) Air quality monitoring information may also be available at the Maricopa County Air Quality Department. Please contact Harry Chiu, Permits Manager, at (602) 506-6736 for more information.

No change was made to the Permit as a result of this comment.

11. COMMENT: Before the permit is issued, we request that ADEQ and VES take personnel from our company on a guided tour of the facility in order that we can see the facility and its condition firsthand and have a full understanding of how the facility works and the safeguards that are in place to prevent our personnel from being adversely affected by an event at the VES facility.

RESPONSE: ADEQ has forwarded your request to VES. VES has agreed to provide such a tour of their facility. They will coordinate this activity directly with the commenter. ADEQ representatives will be available, as well, to address any regulatory inquiries.

No change was made to the Permit as a result of this comment.

12. COMMENT: Should ADEQ be unable or unwilling to implement any of the requests contained herein, we respectfully request that the ADEQ Director schedule a public hearing so that these issues can be raised and considered carefully.

RESPONSE: ADEQ will consider this request if there are still concerns with these issues upon review of the ADEQ responses and after a tour of the facility. A public hearing may be granted if ADEQ finds that the hearing is necessary in order to further clarify one or more issues involved in the permit decision. Hazardous waste rules only require ADEQ to hold a hearing upon receipt of a written notice of opposition to the draft permit within the comment period. ADEQ did not receive any such notice during the comment period.

No change was made to the Permit as a result of this comment.

13. COMMENT: The August 18, 2006 letter from one commenter identifies several major points of concern. VES addresses each of them individually below.

- i. Population of area in immediate vicinity of the facility. In the commenter's letter he describes the area in which the facility is located as a densely populated urban setting. VES believes that this description of the area in the immediate vicinity of the facility is not accurate. The facility is located within an industrial park in an industrialized section of the City of Phoenix. According to US EPA data the population density within a 1 mile radius of the facility is ~854/sq. mile; whereas, the average population density for the City of Phoenix is greater than 2860/sq. mile.**
- ii. Notification of neighboring businesses in the event of an emergency. The commenter, a neighboring company, has requested that a provision be added to the permit requiring VES to notify its neighbors in the event of a fire or release requiring the implementation of the contingency plan. Although we understand the concerns of the commenter for its employees, VES believes that adding additional requirements to the emergency response notification portion of the permit will not improve protection of public health and could potentially create a scenario that could hinder proper response to an emergency. VES is required by permit and in accordance with our contingency plan to immediately notify AZ DEQ, local emergency response agencies and potentially the US EPA National Response Center. VES has provided a copy of the facility's contingency plan and any information required to be submitted under the Emergency Planning Community Right to Know Act to each of these agencies. From this information, and from information provided by other companies that use hazardous materials, these agencies have developed plans for responding to potential emergencies. These plans include provisions for the notification of off-site personnel who might be affected by the emergency. In the event of an emergency the incident commander will typically be the senior fire official on-site. All notifications and orders to evacuate or shelter in place would be subject to approval of the incident commander. It is VES's position that the decision of who to notify and when to notify should be determined by the incident commander and should not be included as a provision of the permit.**
- iii. Regarding the comment on the reporting of newly discovered releases and the concern regarding the time for required notifications as specified in Part IV (F). This section is titled Corrective Action for Solid Waste Management Units and addresses the investigation of the site for contamination resulting from past activities and on-site activities not subject to hazardous waste permitting as opposed to contemporaneous releases. As such, this reporting time frame does not apply to any current or future release which would be subject to immediate notification. Considering the scope of this section of the permit, it is VES's position that the time frames for reporting are protective of public health.**
- iv. A commenter has requested to receive copies of all reports and results of testing submitted to the AZ DEQ. The commenter has requested that they receive copies of all reports and testing submitted to the AZ DEQ. Under current law, anything submitted by VES to the department that is not claimed as confidential business information is open for public review. Additionally, much of the information is now**

made available by US EPA and AZ DEQ through the Internet. It is VES's position that these measures should be adequate to meet the needs of the commenter.

- v. Regarding the request for a tour of the facility. VES has agreed to host a tour of our facility for the commenter.**
- vi. In response to the concern with mercury concentrations at the property line, VES has the following comments. The facility currently holds an Air Pollution Control Operating Permit, issued by Maricopa County under authority granted by the AZ DEQ. This permit contains concentration limits and requirements for monitoring air emissions from the facility. This permit has been established in accordance with the Clean Air Act and applicable state laws and regulations. It is the position of VES that the Air Operating Permit issued by Maricopa County is sufficient to protect public health and welfare. Any additional requirements that might be put into the facility's RCRA permit would be redundant and could potentially conflict with the air permit for the facility.**
- vii. In response to the comments concerning closure and closure cost estimates. VES operates both Mercury recycling and PCB Commercial Storage operations at our facility. As such, there are two separate closure plans and closure funding mechanisms, one subject to AZ DEQ regulation and one subject to US EPA regulation. Building #2 is primarily used for processing PCB/NON-PCB electrical equipment and receiving material into our facility and has been included in the closure plan developed for our PCB Commercial Storage activities and subject to US EPA regulation. The closure plan submitted as part of this permit application was designed to address all areas of the facility not currently addressed under the US EPA closure plan. As such, the closure plan and closure cost estimate is sufficient to address the entire facility. VES is aware of the stipulations contained in the Zoning Waiver received from the City of Phoenix. It would be our intention to notify them if we were to increase storage capacities or expand our operation. VES has not asked for increases beyond what was approved in the current waiver.**

RESPONSE: Comments noted.

14. VES hosted a facility tour for representatives of Conair, a neighboring facility, on October 27, 2006. On November 10, 2006, ADEQ received a follow-up letter from Mr. Jeff Brohel of Conair stating that Conair has "decided, after a favorable site inspection with VES and a review of the further information provided by Arizona DEQ regarding the permit, that Conair will not object any further at this time to the approval of the VES draft permit allowing for changes in the facility use and operation delineated in the permit." However, Conair had several requests.

- i. They request that "the significant monitoring and reporting controls that are put into place under the guidelines established in the draft permit for operation of the**

facility will continue to be vigilantly followed by VES and aggressively enforced by Arizona DEQ.”

RESPONSE: ADEQ has modified the permit to require that the Permittee submit a written report to ADEQ whenever three consecutive mercury vapor measurements at the two carbon filter systems fall above VES’s “action level”. The written report is required to be submitted to ADEQ within 7 days of when these measurements are taken. VES currently monitors the carbon filter systems in accordance with their Maricopa County air quality permit.

ADEQ does not consider any measurements above the VES action level to be a violation of the permit or hazardous waste rules. First, the action level is set below (i.e. “more protective than”) the maximum allowable concentration levels set by Maricopa County, and it is used as an indicator for when the granular activated carbon should be replaced in the filter units. Also, the measurements are collected between the first and second carbon units -- thus, the second unit provides an additional level of protection to the public. Nevertheless, ADEQ requests these reports because it is prudent to verify VES’s mercury monitoring and control equipment maintenance between those periods that ADEQ conducts hazardous waste facility inspections. ADEQ’s basis for the additional permit conditions is: R18-8-270.A [40 CFR 270.31 (Requirements for Recording and Reporting of Monitoring Results), and 40 CFR 270.32 (Omnibus Permit Authority)].

The following changes have been made to the Permit:

- 1) Part II, Section K, Item 3: A Mercury Action Level Report will be required with the text added, “The Permittee shall submit to the Director a written report whenever mercury vapor concentration measurements at the two carbon filter systems are above VES’s Action Level for three consecutive readings, the initial reading and the two subsequent verification readings. The report shall specify the location (carbon filter system), date, time, and measurements. The report shall be submitted within 7 days of when the measurements were taken and must be certified in accordance with A.A.C. R18-8-270.A (40 CFR 270.11(d)(1)).”
- 2) Attachment B, Section 5.6: The environmental control item, “The atmosphere exhausted from the crusher, separator, and the dust collector is treated by carbon filtering to remove any mercury in the vapor phase,” will be modified to, “The atmosphere exhausted from the crusher, separator, and the dust collector is treated by carbon filtering to remove any mercury in the vapor phase. A portable Jerome mercury vapor analyzer, or similar analyzer, is used to monitor mercury vapor concentrations at the carbon filters for both the crusher/storage area carbon filter system and the disassembly/retort area carbon filter system. Measurements are taken between the first and second in-series carbon units for each system at a frequency of once every four hours during operation. If a measurement is above VES’s Action Level, two subsequent verification measurements are taken, which include the use of a second Jerome mercury vapor analyzer. Three consecutive readings above the mercury vapor action level are to be reported to ADEQ pursuant to Part II, Section K.3.”

- ii. **Conair is also requesting that, “In addition, should VES wish to change or expand its operations in any way in the future, we request that Conair be notified of such proposed action and allowed to comment and/or object at that time.”**

RESPONSE: ADEQ agrees that notification of changes or expansions is appropriate. The hazardous waste rules require a Permittee to notify ADEQ of any Class 1 permit modifications and apply to ADEQ for Class 2 and 3 permit modifications. Per those rules, the Permittee is required to send an informational notice of any permit modification requests to all persons on ADEQ’s mailing list. Conair has been included in this list.

In addition to the facility mailing list notice, for Class 2 and 3 permit modifications, the Permittee must publish a public notice in a major local newspaper within seven days of the request, maintain a local information repository, begin a public comment period of not less than 60 days, and hold a public meeting within the timeframe of the comment period.

15. ADEQ has made the following minor corrections and updates to the Draft Permit:

- i. UPDATE: On October 5, 2006, VES submitted a Class 1 modification to ADEQ to update their Contingency Plan. Mr. Brian O’Leary was removed from the Alternate Emergency Coordinator list as he was no longer with VES. They also updated their name on the Contingency Plan from Onyx to VES. ADEQ removed Mr. Brian O’Leary’s name from Attachment E Contingency Plan in the Draft Permit, specifically Section 1.3.1 Designated Key Personnel, and from the Emergency Response Contacts table in Exhibit E-1.
- ii. CORRECTION: Based on a final review of the Draft Permit, ADEQ changed Part IV Corrective Action, Section B, to clarify the drywell reference information. The sequence of the two associated figures located in Attachment G was adjusted for clarification purposes, as well.
- iii. UPDATE: Based on feedback from the local fire department, VES has provided an additional facility copy of the Contingency Plan located outside of the facility gate, to be easily accessed by the fire department in the event of a response. Attachment E Contingency Plan, Section 1.1.4, was updated to include, “An additional copy of the Contingency Plan is located in a lock box on the south wall in front of Building 3 (see Figure 1 in Exhibit E-6). This additional facility copy of the Contingency Plan shall also be updated when any change is made to the plan. Because this copy of the Contingency Plan is an additional facility copy, VES may elect to delete it as a requirement upon submittal of a Class 1 permit modification to the ADEQ.”