

**ADEQ RESPONSE TO PUBLIC COMMENTS ON THE
CLEAN HARBORS ARIZONA, LLC DRAFT HAZARDOUS WASTE PERMIT**

Arizona Administrative Code (A.A.C.) R18-8-271.0 requires ADEQ to respond to all significant comments made on any draft Permit within the public comment period. On April 25, 2010, a public notice was advertised in the *Arizona Republic*. The public comment period opened on April 25, 2010 and closed on June 9, 2010. No request for a public meeting or public hearing was submitted by any member of the public.

On May 28, 2010, Clean Harbors Arizona, LLC (*CHA*) submitted written comments on the draft permit. No other comments were received from the general public. The following is a compilation of *CHA*'s comments. The comments are followed by ADEQ's response in **bold indented text**.

COMMENT 1 – Part I, Section H.3 on page I-11 of General Permit Conditions requires the Training Director to submit an ADEQ character/background reference form. The Training Director is a Clean Harbors corporate position and not directly affiliated with Clean Harbors Arizona. R18-8-260 defines Key Employee as “Key employee means any person employed by an applicant or permittee in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the applicant or permittee.” As such, we do not believe this position is appropriately identified as a key employee. We request that the requirement for this character/background reference form be removed.

RESPONSE: Agreed. The requirement that the Training Director submit a character background reference form has been deleted.

The following change has been made to the Permit at I.H.3, page I-11:

“3. Changes to Key Employee(s)

For the following key personnel changes, the Permittee shall submit to the ADEQ Contact an ADEQ Character/Background Reference Form:

- ~~(a) Training Director – See Permit Attachment H (Personnel Training);~~
- (ba) Signatories – See Permit Condition I.E.11 (Signatory and Certification Requirements);**
- ~~(-e-b) Emergency Coordinators – See Permit Attachment G (Contingency Plan).”~~

COMMENT 2 – Part II, Section T on page II-12 of the General Permit Conditions requires the submittal of three documents for approval no later than 90 days after the effective date of this permit and prior to the operation of the hazardous waste storage tanks. Clean Harbors Arizona (CHA) is submitting the requested documents within these comments and requests that “and prior to the operation of the hazardous waste storage tanks” be removed from T.1.

RESPONSE: ADEQ has reviewed the submittals, but does not believe they provide sufficient detail; further, the documents require further editing and reorganization. ADEQ has prepared a letter with its comments and recommendations that will follow this Response to Comments summary.

ADEQ agrees to remove the statement: “and prior to the operation of the hazardous waste storage tanks”.

ADEQ has added a clarifying statement that notes that the submittals are considered to be Class 1 changes with Director approval. This was added to clarify that the submittals do not represent significant (Class 2 or 3) changes to the permit.

The following change has been made to Section II.T.1 of the Permit:

“T. DOCUMENTS TO BE SUBMITTED

- 1. The Permittee shall submit revisions to the following documents to the Director for approval no later than ninety (90) days after the effective date of this Permit ~~and prior to the operation of the hazardous waste storage tanks~~. These documents shall be submitted as a Class 1 modification with Director approval: ”**

COMMENT 3 – Enclosed you will find a new Appendix D-9, Operations and Maintenance Plan; Carbon Based Control Systems to address the document requested in II.T.1.a and newly created Appendix F-2, RCRA Tank Inspection Protocol to address the documents requested in II.T.1.b and II.T.1.c.

RESPONSE: ADEQ has reviewed the documents and does not believe they provide sufficient detail; further, the documents require further editing and reorganization. ADEQ has prepared a letter with its comments and recommendations that will follow this RTC summary.

No changes have been made to the Permit as a result of this comment and the associated submittals.

COMMENT 4 – Exhibit E-4, Procedure for Calculating Carbon Efficiency and Carbon Replacement, has a typographical error. Monitoring frequency for carbon should be monthly, not weekly. Enclosed is a revised Exhibit.

RESPONSE: Acknowledged. ADEQ has replaced the revised Exhibit E-4 in the Final Permit. ADEQ notes that this Exhibit may require further update per the changes requested in Comments 2 and 3 of this RTC summary.

COMMENT 5 – Exhibit G-2, List of Emergency Response Contacts includes a list of the Emergency Coordinators. CHA requests the revised Exhibit replace the document in the draft permit. This revised contact list adds an additional alternate.

RESPONSE: Acknowledged. ADEQ has replaced the Exhibit G-2 List of Emergency Response Contacts in the Final Permit. Please provide a completed ADEQ character/background reference form for Robert Woods within 30 days after the effective date of this Permit.

NOTE: The Permittee is notified of two other minor changes made to the Permit:

1. Permit Condition I.D (Severability) has been deleted. It was inserted in error.

“

D. SEVERABILITY [reserved]

~~The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.~~

~~{A.A.C. R18-8-270.A (40 CFR 124.16(a))}~~

”

2. Permit Condition II.L.5 is changed as follows:

“

5. Submittal of Cost Revision

Any revisions made to the closure or corrective action cost estimates per L.2 or L.3, above shall be submitted to the ADEQ Contact within thirty (30) days of revision. The submittal shall provide the updated and prior cost estimates and show the method and calculations used in the update. This submittal shall be made as a Class 1 permit modification with Director approval.”

Attachment 1

Pages Changed In Final Permit

D. [reserved]

E. DUTIES AND REQUIREMENTS

The following conditions apply, pursuant to A.A.C. R18-8-270.A and 40 CFR 270.30:

1. Duty to Comply

The Permittee shall comply with all conditions of this Permit, except to the extent and for the duration such noncompliance is authorized by an Emergency Permit. Any Permit noncompliance, other than noncompliance authorized by an Emergency Permit, constitutes a violation of AHWMA and/or RCRA and is grounds for enforcement action; for Permit termination, revocation and reissuance, or modification; or for denial of a Permit renewal application.

[A.A.C. R18-8-270.A and 40 CFR 270.30(a)]

2. Duty to Reapply

If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for a new Permit at least one hundred eighty (180) days prior to Permit expiration.

[A.A.C. R18-8-270.A, 40 CFR 270.10(h), and 270.30(b)]

3. Permit Expiration

This Permit shall be effective for a fixed term not to exceed ten (10) years. This Permit and all conditions herein will remain in effect beyond the Permit's expiration date, if the Permittee has submitted a timely, complete permit application for renewal and through no fault of the Permittee, the Director has not issued a new Permit. For purposes of this requirement a complete application for renewal must be in accordance with requirements of A.A.C. R18-8-270.A, E, F, G, H, I, and J (40 CFR 270.10, 270.13 through 270.29)

[A.A.C.R18-8-270.A (40 CFR 270.50(a), 40 CFR 270.51)]

4. Need to Halt or Reduce Activity Not a Defense

It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the Permitted activity in order to maintain compliance with the conditions of this Permit.

[A.A.C. R18-8-270.A and 40 CFR 270.30(c)]

5. Duty to Mitigate

In the event of noncompliance with this Permit, the Permittee shall take all reasonable steps to minimize releases to the environment and shall carry out such measures, as are reasonable, to prevent significant adverse impacts on human health or the environment.

[A.A.C. R18-8-270.A and 40 CFR 270.30(d)]

- (b) Permit Condition I.E.12(b) (Reporting Requirements – Anticipated Noncompliance);
- (c) Permit Condition I.E.12 (a) (Reporting Requirements – Planned Changes);
- (d) Permit Condition II.A (Design and Operation of Facility);
- (e) Signatory and document liability certification requirements as described in Permit Condition I.E.11 (Signatory and Certification Requirements);
- (f) Confidentiality rules, if desired, pursuant to Permit Condition I.F. (Confidential Information); and
- (g) Fees required to be submitted with the application for Permit modification as required by A.A.C. R18-8-270.G.
- (h) Follow procedures, as applicable, for changing the emergency contingency plan or hazardous waste codes and changing key employees.

2. Facility Mailing List

The Permittee shall obtain (from the ADEQ Contact) and use an updated current facility mailing list, pursuant to A.A.C. R18-8-270.A and 40 CFR 270.42 when processing all Permittee requested Permit modifications.

[A.R.S. 49-941, A.A.C. R18-8-271.I(c)]

3. Changes to Key Employee(s)

For the following key personnel changes, the Permittee shall submit to the ADEQ Contact an ADEQ Character/Background Reference Form:

- (a) Signatories – See Permit Condition I.E.11 (Signatory and Certification Requirements);
- (b) Emergency Coordinators – See Permit Attachment G (Contingency Plan).

[A.R.S. 49-922.C; A.A.C. R18-8-270.J (270.14(b)(20))]

4. Changes to Contingency Plan

Modifications to Permit Attachment G (Contingency Plan) have additional notification requirements as described in that plan.

[40 CFR 264.37(a)(4) and A.A.C. R18-8-264.A]

L. COST ESTIMATE FOR FACILITY CLOSURE AND CORRECTIVE ACTION

1. Cost Estimates

The Permittee's most recent closure cost estimate, prepared in accordance with A.A.C. R18-8-264.A, 40 CFR 264.142(a), is specified in Permit Attachment I (Section I.3, Closure Cost Estimates). The Permittee's most recent corrective action cost estimate, prepared in accordance with A.A.C. R18-8-264.A, 40 CFR 264.101(b), is also specified in Permit Attachment I (Section I.3, Closure Cost Estimates).

2. Cost Adjustments

The Permittee must adjust the closure cost and corrective action cost estimates within sixty (60) days prior to the anniversary date of the establishment of the financial instrument(s).

[A.A.C. R18-8-264.A and 40 CFR 264.142(b)]

3. Cost Revisions

The Permittee must revise the closure cost estimate whenever there is a change in the facility's Closure Plan. The Permittee must revise the corrective action cost estimate whenever there is a change in the corrective action scope of activities.

[A.A.C. R18-8-264.A and 40 CFR 264.142(c)]

4. Maintenance of Cost Revisions

The Permittee must keep at the facility the latest closure and corrective action cost estimates.

[A.A.C. R18-8-264.A and 40 CFR 264.142(d)]

5. Submittal of Cost Revision

Any revisions made to the closure or corrective action cost estimates per L.2 or L.3, above shall be submitted to the ADEQ Contact within thirty (30) days of revision. The submittal shall provide the updated and prior cost estimates and show the method and calculations used in the update. The submittal shall be made as a Class 1 permit modification with Director approval.

M. FINANCIAL ASSURANCE FOR FACILITY CLOSURE AND CORRECTIVE ACTION

The Permittee shall demonstrate continuous compliance with this Permit Condition by providing documentation of financial assurance, as required by A.A.C. R18-8-264.A and 40 CFR 264.143 and 264.151 and 264.101, in at least the amount of the cost estimates required by Permit Condition II.L. Changes in financial assurance mechanisms must be approved by the Director pursuant to A.A.C. R18-8-264.A, L and 40 CFR 264.143.

[A.A.C. R18-8-264.A (40 CFR 264.73(b)(9))]

2. Signatory Requirements

This certification shall be retained with the facility's operating record and shall comply with the signatory requirement of Permit Condition I.E.11 (Signatory and Certification Requirements).

T. DOCUMENTS TO BE SUBMITTED

1. The Permittee shall submit revisions to the following documents to the Director for approval no later than ninety (90) days after the effective date of this Permit. These documents shall be submitted as a Class 1 modification with Director approval:
 - (a) An Operations and Maintenance plan, with revised inspection protocols, for the operation of the carbon-based emission control system. Inspection of the system shall be in accordance with Part IV.F.6. As a minimum requirement, the plan must specify the locations at which monitoring shall occur (e.g., between in-line canisters, and on the back-end of the canister train), the action levels at which specific action (e.g., carbon change-out) shall occur, the type of monitoring device proposed for use, the conditions under which monitoring will occur (e.g., when the system is in the process of transferring liquids), and the frequency with which the monitoring will occur.
 - (b) A detailed tank inspection protocol that references appropriate codes and standards. This protocol must include the pressure control/relief system inspection schedule and test protocols. Inspections shall be in accordance with Part IV.F.3 through Part IV.F.5.
 - (c) Documentation regarding overfill controls outlining inspection practices and test protocols. Inspections shall be in accordance with Part IV.F.2.
2. Within 60 days of Permit issuance Permittee shall submit updated financial assurance documentation to the ADEQ Contact. The updated financial assurance shall include an amount necessary to complete corrective action for the facility, in an amount not less than \$524,700.

EXHIBIT E-4

**PROCEDURES FOR CALCULATING CARBON EFFICIENCY AND CARBON
REPLACEMENT**

CALCULATING CARBON EFFICIENCY

The efficiency of each carbon canister should be monitored on a monthly basis to determine that the canister is functioning at the manufacturer's specification of 95%.

Volatile Organic Concentrations (VOC's) are measured using a Flame Ionization Detector (FID), or Photo Ionization Detector (PID). In order to verify control efficiency, monitoring will occur at the inlet to the carbon system and at the outlet of the system.

The control efficiency is calculated based on the differential between the two monitoring points.

PROCEDURE FOR CARBON REPLACEMENT

Breakthrough is discovered if the carbon efficiency is less than 95%. Once discovered, the first carbon unit shall be replaced within 24 hours of breakthrough.

Service shall be completed by removing the primary canister and replacing it with the secondary canister, and then installing a new canister in the secondary position. This will ensure full utilization of all carbon beds. One spare canister may be kept on-site to ensure that replacement can be completed as required.

EXHIBIT G-2

LIST OF EMERGENCY RESPONSE CONTACTS

- **List of Emergency Response Contacts**

Emergency Type	Agency/Firm	Phone Number
Injury	Phoenix Paramedics	911
	Phoenix Memorial Hospital (1201 S. 7th Ave.)	602-258-5111
Fire/Explosion	Phoenix Fire Department	911
Spill or Hazardous Material Release	Arizona Dept. of Environmental Quality	602-771-2330
	Phoenix Fire Department	911
(off-site)	National Response Center	800-424-8802 202-267-2165 (fax)
(off-site)	U.S. Environmental Protection Agency	866-EPA-WEST (866-372-9378)
	MP Environmental Services, Inc.	602-278-6233
Poison	National Poison Control Center	800-362-0101
	Samaritan Regional Poison Center (1441 N. 12th Street)	602-253-3334
Emergency Event	Arizona Dept. of Environmental Quality	602-771-2330
	Phoenix Police Department	911

CLEAN HARBORS ARIZONA, LLC
1340 W LINCOLN ST.
PHOENIX, ARIZONA

List of Emergency Coordinators

Primary Emergency Coordinator

Brian Parker

Business: (602) 258-6155

General Manager

Residence: (480) 703-9066

45613 W Dutchman Drive

Mobile: (602) 721-7238

Maricopa, Arizona

Alternate

Robert Woods

Business: (602) 258-6155

Facility Foreman

Residence: (520) 705-0366

42742 W Hillman Dr

Mobile: (480) 262-2463

Maricopa, Arizona

Alternate

Paul Steber

Business: (602) 258-6155

Facility Foreman

Residence: (480) 899-9422

2380 E Fairview St.

Mobile: (602) 209-2294

Chandler, Arizona

Attachment 2

Character/Background Reference Form For Key Employee (EC)



CHARACTER/BACKGROUND REFERENCE FORM FOR HAZARDOUS WASTE FACILITY KEY EMPLOYEES

BACKGROUND

Pursuant to ARS § 49-922.C. and A.A.C. R18-8-270.J, the Arizona Department of Environmental Quality (ADEQ) requires that permit applicants and other persons associated with a hazardous waste management facility supply character/background information sufficient to demonstrate their reliability, expertise, integrity, and competence to operate a hazardous waste facility. The attached application supplement shall be provided to ADEQ at the time that a RCRA Part B permit application to treat, store, or dispose of hazardous waste is submitted and at such times when Key Employees are added or changed.

DEFINITIONS

“Applicant” is defined as the corporation, company, partnership, or other entity seeking a hazardous waste facility permit and identified in the permit application.

“Key Employee” is defined as any person employed by the Applicant in a supervisory capacity or empowered to make discretionary decisions with respect to the solid waste or hazardous waste operations of the facility. This definition may include positions such as the plant manager, environmental manager, emergency coordinator(s), and training director(s).

INSTRUCTIONS

- Each of the Applicant’s Key Employees must complete a copy of this form as part of the RCRA Part B permit application or as necessary to modify the permit.
- All questions must be answered completely.
- As indicated on the last page of this form, all statements herein are to be made under oath.
- ADEQ may coordinate with other state, federal, and local agencies to verify the information provided herein, as well as to obtain additional information as needed. The Attorney General’s Office may conduct background investigations on any or all of the persons identified in the Applicant’s submittals.
- Additional background or reference information may be submitted if you believe that it will help the ADEQ to render a decision on your application. Additional sheets can be attached as necessary.
- Send completed forms to ADEQ, Hazardous Waste Permits Unit, 1110 W. Washington, Mail Code 4415A-1, Phoenix, Arizona 85007.

CHARACTER/BACKGROUND REFERENCE FORM

1. General Information

Full name _____
(First) (Middle) (Last)

Date of birth* _____
(Month) (Day) (Year)

Place of birth* _____
(City) (State) (County)

Social Security Number* _____

Current residence* _____
(Street) _____
(City) (State) (Zip)

Information marked with “*” will be held confidential and will not be made available in a public file.

Are you a U.S. citizen? Yes _____ No _____

2. Employment History (last 5 years)

Dates From/To and Position

Name and Address of Employer

Dates From/To: _____
Position: : _____ (Name) _____

(Street) _____
(City) (State) (Zip)

Dates From/To: _____
Position: : _____ (Name) _____

(Street) _____
(City) (State) (Zip)

Dates From/To: _____
Position: : _____ (Name) _____

(Street) _____
(City) (State) (Zip)

CHARACTER/BACKGROUND REFERENCE FORM

3. **Have you read and do you understand the Arizona hazardous waste laws, rules, and regulations?** Yes _____
No _____

4. **Have you been convicted of a felony within the last five years? Include guilty and nolo contendere (no contest) pleas.** Yes _____
No _____

If "yes", please specify

the court(s) in which the conviction(s) was/were entered (name and location) _____

date of each conviction _____

original charge(s) _____

offense(s) convicted of _____

5. **Have you been convicted of a misdemeanor relating to environmental matters within the last 5 years? Include guilty and nolo contendere (no contest) pleas.** Yes _____
No _____

If "yes", please specify:

The court(s) in which the conviction(s) was/were entered _____

Date of each conviction _____

Original charge(s) _____

Offense(s) convicted of _____

CHARACTER/BACKGROUND REFERENCE FORM

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6. **Has any governmental or judicial entity provided you with notice that you are subject to any restraining order, injunction or similar order related to environmental matters within the last 5 years?** Yes _____
No _____

If "yes", please specify:

Date of each order _____

The court, agency or other entity which issued order(s) _____

Type of action _____

Is the action still pending? Yes _____
No _____

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7. **Are you presently the subject of any investigation or proceeding by the U.S. EPA or government authority in any state regarding environmental issues?** Yes _____
No _____

If "yes", indicate the nature of the investigation of the proceeding and the name and location of the government authority _____

-
8. **Have you ever had a business or professional license revoked or suspended?** Yes _____
No _____

If yes, provide the address of the licensing authority and the date of the action/order. _____

-
9. **Have you ever been denied a business or professional license?** Yes _____
No _____

If yes, provide the address of the licensing authority and the date of the action/order. _____

-
10. **Have you voluntarily surrendered a business or professional license in the last 5 years?** Yes _____
No _____

If yes, provide the address of the licensing authority and the date of the action/order. _____

CHARACTER/BACKGROUND REFERENCE FORM

STATE OF _____)

County of _____)

I, _____, having been duly
(full name--printed or typed)

sworn, depose and say that the foregoing information is in all respect true and correct to the best of my knowledge. I understand that providing false information is a felony.

(Signature)

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20_____.

(Notary Public)

My Commission expires:
