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GOVERNOR



CHUCK CARR BROWN, Ph.D.
SECRETARY

State of Louisiana

DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL SERVICES

JAN 03 2020

CERTIFIED MAIL 7019 2280 0000 4380 7661
RETURN RECEIPT REQUESTED

Mr. James Childress, Vice President of Environmental Compliance East
Clean Harbors Environmental Services
2815 Old State Hwy 11
Greenbrier, TN 37073

RE: Notice of Intent to Deny Hazardous Waste Operating Permit Renewal Application
Clean Harbors Colfax, LLC
LAD 981055791
AI#32096/PER20170002

Dear Mr. Childress:

The Louisiana Department of Environmental Quality (LDEQ) Waste Permits Division has reviewed Clean Harbors, Colfax, LLC's request for a hazardous waste permit renewal to operate a commercial open burn and open detonation facility in Colfax, Louisiana.

Based on a careful review of the application, the LDEQ hereby issues the attached Notice of Intent to Deny.

Sincerely,

A blue ink signature of Elliott B. Vega, written in a cursive style.

Elliott B. Vega
Assistant Secretary

kav

c: Mr. Phillip G. Retallick, Senior Vice President, Compliance and Regulatory Affairs
Clean Harbors Environmental Services, Incorporated
128B Frontage Road
Lexington, SC 29073

FACT SHEET

FOR THE PROPOSED DENIAL OF A HAZARDOUS WASTE OPERATING PERMIT RENEWAL APPLICATION

PREPARED FOR

Clean Harbors Colfax, LLC – Colfax Facility

**Agency Interest # 32096
LAD 981 055 791
Activity Number PER20170002**

**3763 Highway 471
Colfax, Louisiana, 71417
Grant Parish**

I. INTRODUCTION

Clean Harbors has applied to renew its hazardous operating permit for the storage and treatment of hazardous waste at its Colfax, Louisiana facility.

This fact sheet and the accompanying Notice of Intent to Deny (incorporated herein by reference), briefly sets forth principal and significant facts, legal, methodological and policy requirements of the proposed denial of a hazardous waste operating permit renewal application for Clean Harbors Colfax, LLC, (Clean Harbors), EPA ID Number LAD 981 055 791, Agency Interest Number 32096, located in Colfax, Grant Parish, Louisiana.

A. THE PERMITTING PROCESS

The Waste Permits Division of the Louisiana Department of Environmental Quality (LDEQ) has prepared a Notice of Intent to Deny the Clean Harbors hazardous waste permit renewal application pursuant to the Hazardous Waste Control Law, La. R.S. 30:2171 et seq., and all applicable regulations.

B. HAZARDOUS WASTE PERMIT

The Waste Permits Division reviewed the permit application and other pertinent technical information prior to preparing a Notice of Intent to Deny. A decision to deny the hazardous waste permit renewal application will be a final decision of the Administrative Authority.

C. PUBLIC COMMENT PERIOD

As required by LAC 33:V.715, the Notice of Intent to Deny the Clean Harbors' hazardous waste permit renewal application will be publicly noticed.

II. DESCRIPTION OF OVERALL SITE

Clean Harbors operates a commercial hazardous waste open burning/open detonation facility located at 3763 Highway 471, Grant Parish, Colfax, Louisiana. The total acreage of the site is 622.85 acres, with 43 acres designated for commercial hazardous waste treatment and storage. The facility is located at Latitude 31° 34' 05" North and Longitude 92° 43' 21" West.

III. HAZARDOUS WASTE FACILITIES

The Notice of Intent to Deny is applicable to the following units:

EXISTING CLASS 1 CONTAINER STORAGE MAGAZINES		
DESIGNATED AREA	DIMENSIONS	MAXIMUM CAPACITY
(S01) Magazine Storage No. 1 (dry storage)	40' x 8' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 2 (dry storage)	40' x 8' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 3 (dry storage)	10' x 20' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 4 (dry storage)	10' x 20' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 5 (dry storage)	10' x 20' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 6 (dry storage)	10' x 20' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 7 (dry storage)	10' x 20' x 8'	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 8 (wet storage) with Portable containment skids and/or secondary containment	10' x 20' x 8' w/ 12" high thresholds	11,968 gallons or 5,000 pounds or 59.3 cubic yards

(S01) Magazine Storage No. 9 (wet storage) with Portable containment skids and/or secondary containment	10' x 20' x 8' w/ 12" high thresholds	11,968 gallons or 5,000 pounds or 59.3 cubic yards
(S01) Magazine Storage No. 10 (wet storage) with Portable containment skids and/or secondary containment	10' x 20' x 8' w/ 12" high thresholds	11,968 gallons or 5,000 pounds or 59.3 cubic yards
EXISTING CONTAINER STORAGE AREA AT REAR OF PREPARATION BUILDING		
DESIGNATED AREA	DIMENSIONS	MAXIMUM CAPACITY
(S01) Container Storage Area	60'x 18' with 6" curbing	60 cubic yards or 2,500 gallons
EXISTING PREPARATION BUILDING		
DESIGNATED AREA	DIMENSIONS	MAXIMUM CAPACITY
(X02) Physical Preparation Building	1,400 sq. feet	410 lbs per hour
EXISTING THERMAL TREATMENT UNIT AND AREA(S)		
TREATMENT METHOD	DIMENSIONS	MAXIMUM CAPACITY
(X01) Thermal (OB/OD) Treatment Unit		410 lbs per hour or 0.76945 short tons per day equal to 561,700 lbs per year (net explosives weight)
Square Burn Pans 1 through 20 burn D003, characteristic waste	6' x 6' each	410 lbs per hour per 1 to 20 pans (not to exceed 410 lbs per hour)
20 Concrete Burner Pads	16' x 16'x 1.5' each	N/A
Concrete Burn Slab	700' x 130' 6" thick	N/A

IV. DESCRIPTION OF PROCEDURES FOR REACHING A DECISION ON THE PROPOSED DENIAL AND THE PERMITTING PROCESS

A. Document Submittal and Review

Through a permit renewal application dated April 27, 2017, Clean Harbors requested to renew its hazardous waste operating permit for the Colfax facility.¹ In response to LDEQ's requests, Clean Harbors also submitted a document dated April 18, 2017, and titled "Alternatives for the Disposal of Energetic Wastes at the Clean Harbors' Colfax LLC Open Burn Open Detonation Facility".² On January 11, 2018, during the technical review of the application, the LDEQ issued a Notice of Deficiency (NOD) to Clean Harbors detailing deficiencies in the permit renewal application.³ A revised application, dated April 11, 2018, was submitted by Clean Harbors to address the noted deficiencies.⁴ During the technical review of Clean Harbors' revised application and supplemental information, the LDEQ issued a second NOD on August 10, 2018.⁵

As more fully described in the Notice of Intent to Deny, the LDEQ proposes to deny the hazardous waste operating permit renewal application based on Clean Harbors' failure to adequately consider alternatives to the continued open burning/open detonation of the waste treated at its Colfax facility.

B. Public Comment Period

The public is given a minimum of forty-five (45) days to review and comment on the Notice of Intent to Deny. The Administrative Authority will consider all significant comments prior to making a decision or taking any final action on the proposed permit application denial. The specific dates for the opening and closing of the public comment period for the Notice of Intent to Deny are contained in the public notice that is issued with this proposed permit application denial. Any person interested in commenting on the Notice of Intent to Deny must do so within the allotted forty-five (45) day comment period.

C. Public Hearing Information (if applicable)

LDEQ may hold a public hearing if there is a significant degree of public interest. If a hearing is scheduled, the date, location, and time for a public hearing, will be provided by public notice.

1 EDMS Documents 10597305, 10595350, 10595363

2 EDMS Document 10920520

3 EDMS Document 10940365

4 EDMS Documents 11056145, 11056165, 11056088, 11056154

5 EDMS Document 11265463

Public notice of the Notice of Intent to Deny the Clean Harbors' hazardous waste permit application renewal and of the hearing (if applicable) shall be published in specified newspapers, announced on the designated radio station, and mailed to those persons contained on the facility's mailing list.

D. Location of Available Information

The administrative record, including all supporting documents, is on file at the LDEQ Public Records Center, Room 1-127, 602 North 5th Street, Baton Rouge, Louisiana. These documents may be inspected and copied (at \$0.25 per copy page) at any time between the hours of 8:00 to 4:30 p.m., Monday through Friday (except holidays).

The administrative record can also be accessed through LDEQ's Electronic Document Management System (EDMS) under Agency Interest (AI) Number 32096. EDMS can be accessed through the LDEQ's website.

In addition, a copy of the Notice of Intent to Deny, fact sheet, and supporting documents are available for review at the **Grant Parish Library, Colfax Branch, 300 Main Street, Colfax, Louisiana 71417.**

E. Written Comment Submission

Interested persons may submit written comments on the Notice of Intent to Deny to the Administrative Authority, at the address listed below, no later than 12:30 p.m. on the closing date of the comment period. All comments should include:

1. The name and address of the commenter.
2. A concise statement of the exact basis for any comment and supporting relevant facts upon which the comment is based.
3. Identification of the facility commented on (the EPA Identification Number and AI number), and
4. Supporting relevant facts upon which the comments are based.

All comments, requests for a public hearing, further requests for information (including copies of this decision and fact sheet) and any requests by public interest groups or individuals, who would like to be included in the mailing list, should be made in writing to:

Ms. Tommie Milam
Louisiana Department of Environmental Quality
Office of Environmental Services
Post Office Box 4313
Baton Rouge, Louisiana 70821-4313
(225) 219-3276 or fax (225) 219-3309

STATE OF LOUISIANA
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF ENVIRONMENTAL SERVICES

NOTICE OF INTENT TO DENY

HAZARDOUS WASTE OPERATING PERMIT RENEWAL
APPLICATION
LAD 981 055 791
AGENCY INTEREST NUMBER 32096
ACTIVITY NUMBER PER20170002

The Louisiana Department of Environmental Quality-Office of Environmental Services (LDEQ-OES), Waste Permits Division, through this notice of intent to deny proposes to deny the Clean Harbors Colfax, LLC (hereinafter referred to as "Clean Harbors") Hazardous Waste Operating Permit Renewal Application (Permit No. LAD 981055791), for the Clean Harbors Colfax, Louisiana facility. All documents referenced herein are available for public viewing through the LDEQ's Electronic Document Management System (EDMS).¹

The LDEQ finds that the administrative record for the Clean Harbors' Hazardous Waste Operating Permit Renewal Application fails to support permit renewal under the "IT" analysis required by Save Ourselves v. Env'tl. Control Comm'n, 452 So.2d at 1152, 1157 (La. 1984).² In particular, the LDEQ finds the record fails to support a finding that there are no alternative projects or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits.³

¹ EDMS is the LDEQ's electronic repository of official records that have been created or received by the LDEQ. LDEQ employees and members of the public can search and retrieve documents stored in EDMS via the LDEQ's website. (See <http://edms.deq.louisiana.gov/app/doc/querydef.aspx>).

² The "IT Requirements" or "IT Questions" are five requirements that both the permit applicant and the LDEQ consider during certain permit application processes [see Save Ourselves v. Env'tl. Control Comm'n, 452 So. 2d at 1152, 1157 (La. 1984)]. Although the five requirements have been expressed as three requirements (see Rubicon Inc., 670 So. 2d at 475, 483 (La. App. 1 Cir 1996), rehearing denied), the requirements remain basically the same whether stated as five or as three. The "IT Requirements" must satisfy the issues of whether:

- 1) the potential and real adverse environmental effects of the proposed project have been avoided to the maximum extent possible;
- 2) a cost benefit analysis of the environmental impact costs balanced against the social and economic benefits of the project demonstrates that the latter outweighs the former;
- 3) there are alternative projects or alternative sites or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits to the extent applicable.

³ Because the LDEQ finds that the issue of alternative projects to be dispositive of the permit renewal application, it make no further findings concerning any other components of the "IT" analysis required by Save Ourselves.

LDEQ's reasoning for this notice of intent to deny is set forth below:⁴

FINDINGS OF FACT

I. FACILITY DESCRIPTION AND BACKGROUND

Clean Harbors operates a commercial hazardous waste open burning/open detonation facility located at 3763 Highway 471, Grant Parish, Colfax, Louisiana. The total acreage of the site is approximately 622.85 acres, with 43 acres designated for commercial hazardous waste treatment and storage.⁵ Clean Harbors is currently permitted to treat energetic hazardous waste, including explosives and munitions, at the Colfax facility by open burning/open detonation. Additional information regarding the facility's operations can be found in the accompanying Fact Sheet.

Through a permit renewal application dated April 27, 2017, Clean Harbors requested to renew its hazardous waste operating permit for the Colfax facility.⁶ In response to LDEQ's requests, Clean Harbors also submitted a document dated April 18, 2017, and titled "Alternatives for the Disposal of Energetic Wastes at the Clean Harbors' Colfax LLC Open Burn Open Detonation Facility".⁷ During its technical review of the application, the LDEQ issued a Notice of Deficiency (NOD #1) to Clean Harbors on January 11, 2018, detailing deficiencies in the permit renewal application.⁸ A revised application, dated April 11, 2018, was submitted by Clean Harbors to address the noted deficiencies.⁹

During its technical review of Clean Harbors' revised application and supplemental information, the LDEQ issued a second NOD (NOD #2) on August 10, 2018.¹⁰ The LDEQ subsequently continued a dialog with Clean Harbors concerning alternative technologies for managing the waste it treats at the Colfax site in a manner more environmentally protective than open burning/open detonation. As part of this dialog, Clean Harbors indicated that it would present additional analysis of alternatives to the continued open burning/open detonation of waste at the Colfax facility. To date, no such analysis has been presented.

II. PUBLIC PARTICIPATION

⁴ Any finding of fact more appropriately designated as a conclusion of law shall be considered also a conclusion of law; and any conclusion of law more appropriately designated as a finding of fact shall be considered also as a finding of fact.

⁵As outlined in Part I/A and Part II/B of the Clean Harbors Hazardous Waste Permit Renewal Application, the hazardous waste accepted and managed at the Clean Harbors, Colfax facility is classified as hazardous based on the wastes' reactivity.

⁶ EDMS Doc. ID Nos. 10597305, 10595350, 10595363

⁷ EDMS Doc. ID No. 10920520

⁸ EDMS Doc. ID No. 10940365

⁹ EDMS Doc. ID Nos. 11056145, 11056165, 11056088, 11056154

¹⁰ EDMS Doc ID No. 11265463

A. Location of Available Information

The administrative record, including all supporting documents, is on file at the LDEQ Public Records Center, Room 1-127, 602 North 5th Street, Baton Rouge, Louisiana. These documents may be inspected and copied (at \$0.25 per copy page) at any time between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

The documents are also available for review by accessing LDEQ's Electronic Document Management System (EDMS) on the LDEQ public website at www.deq.louisiana.gov.

B. Public Comment Submission

Interested persons may submit written comments on the notice of intent to deny the permit renewal application to the administrative authority, at the address listed below, by the closing date of the comment period. All comments should include:

1. the name and address of the commenter;
2. a concise statement of the exact basis for any comment and supporting relevant facts upon which the comment is based;
3. identification of the facility commented on (the permit number and agency interest (AI) number; and
4. supporting relevant facts upon which the comments are based.

All comments, requests for a public hearing, further requests for information and any requests by public interest groups or individuals, should be made in writing to:

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III. ANALYSIS

As noted above, in conducting its review of a permit application for a hazardous waste treatment, storage or disposal facility, the LDEQ is required to consider whether there are "alternative projects or alternative sites or mitigating measures, which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits". See: Save Ourselves v. Env'tl. Control Comm'n, 452 So.2d at 1152, 1157 (La. 1984).

Alternatives to the open burning/open detonation of energetic hazardous waste currently exist and have been shown to be effective for the management of such wastes in an environmentally sound

manner.¹¹ This is acknowledged by Clean Harbors when addressing the issue of alternative technologies in the “IT” analysis submitted with its Hazardous Waste Permit Renewal Application. In this document, Clean Harbors notes that “Other technologies may be available for certain waste types...” While Clean Harbors goes on to state “however none exist that are as effective, efficient and economically feasible as the Open Burning Thermal Treatment used currently onsite” the LDEQ does not find this conclusory reasoning persuasive. While open burning may be both efficient and economically feasible, that is not the end of the required analysis.

In its “IT” analysis, Clean Harbors goes on to note that “Other technologies such as rotary kiln incinerators or deactivation furnaces have been used to treat some explosive waste; however, are limited to specific waste types and capabilities leaving some to require open burn/detonation.” However, with respect to the use of alternative technologies, Clean Harbors’ ultimate conclusion appears to be found in the statement “Controlled open combustion in thermal treatment units such as those used by CH Colfax is a safe method or treatment for these wastes; therefore there are no alternatives for deactivating reactive wastes which would offer more protection to the environment than the technology currently employed by the facility.” This statement falls short of what is required under Save Ourselves. Even if it is accepted that open burning is “safe” method to treat the wastes Clean Harbors manages, to adequately address the issue, the LDEQ finds that Clean Harbors must have also evaluated whether that environmental protection could be improved without unduly curtailing non-environmental benefits. While such non-environmental benefits certainly include items such as “safety” Clean Harbors has simply not done the required balancing of environmental protection with non-environmental benefits.

The LDEQ also notes that, in its “IT” analysis, Clean Harbors’ focus appears to be on the portion of its waste stream that it claims could not be managed safely through any method but open burning/open detonation. The LDEQ acknowledges that there may be a portion of the wastes managed at the Clean Harbors facility for which open burning/detonation is the only viable option. However, the LDEQ finds that Clean Harbors cannot rely on these waste streams to avoid any analysis of alternative methods where such methods could be safely employed.

Additionally, it is noteworthy that in the “Alternatives for the Disposal of Energetic Wastes at the Clean Harbors’ Colfax LLC Open Burn Open Detonation Facility” document prepared for Clean Harbors, a number of alternative technologies to open burning/open detonation are identified and discussed. However, while the document identified the technologies and weighed their relative merits, Clean Harbors only establishes that alternative technologies exist. However, under the cost-benefit prong of the IT analysis, LDEQ is required to balance the environmental impact costs with the social and economic benefits of a project to determine if the latter outweighs the former. *In re. Rubicon, Inc.*, 95-0108 (La.App. 1 Cir. 2/14/96), 670 So.2d 475, 483. Clean Harbors has failed to demonstrate that the environmental costs of open burning/open detonation are outweighed by the non-environmental benefit of continuing these practices, rather than implementing alternative practices which are more environmentally protective. Again, absent this critical component of the analysis, the record does not support a finding that there are no alternative projects or alternative

¹¹ For example, a burn chamber was used successfully to treat munitions abandoned at the Camp Minden site (See EDMS AI Numbers 8993, 40158, 190459).

sites or mitigating measures which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits.

CONCLUSION

Based on the forgoing analysis, the LDEQ finds that Clean Harbors has failed to demonstrate, through its Hazardous Waste Permit Renewal Application and supporting documents, that there are no alternatives to the open burning/open detonation of wastes which would offer more protection to the environment than the proposed project without unduly curtailing non-environmental benefits. In the absence of such a demonstration in the administrative record, the LDEQ finds that the record is inadequate to support permit reissuance. Accordingly, the LDEQ proposes to deny the Clean Harbors permit renewal application for its Colfax, Louisiana facility.



Elliott B. Vega
Assistant Secretary
Office of Environmental Services