



November 19, 2009

Mr. Daniel Fish  
Environmental Engineer  
Covanta Hennepin Energy Resource Company, L.P.  
505 Sixth Avenue North  
Minneapolis, MN 55405

RE: Administrative Amendment Application received November 3, 2009

Dear Mr. Fish:

On November 3, 2009, the Minnesota Pollution Control Agency (MPCA) received an application for an administrative amendment for the Covanta Hennepin Energy Resource Company (HERC) facility in Minneapolis, Minnesota. The application is being returned at this time because the requested change does not qualify for an administrative amendment.

The requested change consists of removal of a restriction on fuel usage as follows (listed at GP 001 in the permit):

Citation	Requirement
B.05.b. 1984 Minn. Laws ch. 654, art. 2, sect. 29 Minn. R. 7007.0850, subp. 2(D)	Fuel Usage: less than or equal to 365,000 tons year of waste for the total facility. An amendment to increase this fuel usage must undergo public notice and comment. This is a state only requirement and is not federally enforceable.

The reason given for the requested change is that the statute cited in the permit was revised in 2000 to eliminate a restriction to 1000 tons/day (1000 tons/day was used to derive the 365,000 tons/year limit). The basis given in the submittal for saying an administrative amendment can be used is Minn. R. 7007.1400, subp. 1(I):

- I. an amendment to remove any condition from a permit which was based on an *applicable requirement* that has been repealed, but only if the permit condition:
  - (1) is neither required nor replaced by another applicable requirement; and
  - (2) was not established for a specific facility to protect human health and the environment, to prevent pollution, as a mitigation measure in an environmental impact statement, or to obtain a negative declaration in an environmental assessment worksheet;

However, the basis for the permit limit is not an *applicable requirement* as defined in Minn. R. 7007.0100, subp. 7; therefore, the permit condition cannot be removed using an administrative amendment under Minn. R. 7007.1400, subp. 1(I). Because the application was submitted assuming this provision could be used, it does not include the information needed for the MPCA to make a determination on the type of application that is actually required. However, based on a preliminary review of the information in the application and in the MPCA's files, we believe a major permit amendment is required to either remove or revise this permit condition.

You have stated that even though Minnesota rules covering administrative amendments state that the Permittee can make a qualifying change as soon as the application is received by the MPCA (see Minn. R. 7007.1400, subp. 7), the facility has continued to comply with the processing limit pending MPCA's review of the application. In light of the MPCA's determination that your proposed waste disposal expansion does not qualify for an administrative permit amendment, MPCA staff would like to caution you to continue to comply with existing permit condition.

I would also like to bring to your attention revisions to a federal rule that applies to the units covered by the proposed change. The New Source Performance Standard, 40 CFR pt. 60, subp. Cb, was revised in 2006 and new requirements now apply to the units at the Hennepin Energy Resource Company. Under Minn. R. 7007.0600, subp. 2, you have a duty to supplement your pending reissuance application to reflect these changes that have become applicable since the date the application was initially filed.

If you have any questions about this letter, please contact me at 651-757-2706.

Sincerely,



Carolina Espejel-Schutt, P.E.  
Supervisor, Air Quality Permits Unit 1  
St. Paul Office  
Industrial Division

CES:lao

Enclosures

cc: David Thornton, MPCA  
Craig Affeldt, MPCA  
Brent Ronhe, MPCA  
Adriane Lenshek, MPCA  
AQ File No. 2125