

**RESPONSE TO COMMENTS  
REGARDING  
FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT PERMIT  
ISSUED TO VEOLIA ES TECHNICAL SOLUTIONS, L.L.C.**

**A. INTRODUCTION**

This response is issued pursuant to Title 40 of the Code of Federal Regulations (40 CFR) Section 124.17, which requires that any changes of draft permit conditions be specified along with the reason for the change; that all significant comments be described and responded to; and that any documents cited in the response be included in the administrative record. Comments were requested regarding the United States Environmental Protection Agency's (U.S. EPA) tentative determination to reissue a RCRA permit to the Permittee.

A public notice was published in the East St. Louis Monitor and the Belleville News Democrat newspapers on July 31, 2008, and a radio announcement was aired on WCXO-FM Radio on August 31, 2008. The 45-day public comment period commenced on July 31, 2008 and ended on September 15, 2008.

The American Bottom Conservancy and the Sierra Club asked the State for an extension of 21 days to submit comments. The comment period was extended by 10 days, to September 25, 2008.

The administrative record for the federal permit was available at the U.S. EPA Region 5 office at 77 West Jackson Blvd., Chicago, Illinois. Additionally, pertinent information and materials were available at the Cahokia Public Library, located at 140 Cahokia Park Drive, Cahokia, Illinois, and the Illinois Environmental Protection Agency, located at 1021 North Grand Avenue East, Springfield, Illinois

Comments on the draft federal RCRA permit were received from Veolia ES Technical Solutions (Veolia), L.L.C..

**B. RESPONSE TO COMMENTS**

**B.1 General:**

The U.S. EPA has recently updated RCRA permit general conditions for clarity and consistency with the regulatory languages. Therefore, some conditions in the final permit have been revised for such consistency.

**Page 1, Condition I.A.**

The first paragraph was modified to clarify that Veolia needs a State RCRA permit as well as a federal RCRA permit to operate.

The last sentence of the third paragraph was modified to reflect that laws protecting public health, welfare, or the environment that this permit does not provide a defense to are not limited to those involving an imminent and substantial endangerment.

## **B.2 COMMENTS SUBMITTED BY VEOLIA ES SOLUTIONS, L.L.C. (Veolia)**

1. **Page 5, Condition I.E.12b:** Veolia commented that the 2003 draft federal permit included a time period of 30 days from the receipt of the certification for the facility to commence operations, if the Director waives the inspection. The same language is included in the draft permit issued to Heritage-WTI, Inc.

**U.S. EPA's Response:** This condition is derived from 40 CFR § 270.30(l)(2)(ii)(B). U.S. EPA has decided to modify this condition for consistency with the cited regulation as follows:

"The Director waives inspection and the Permittee may commence treatment, storage, or disposal of hazardous waste in accordance with 40 CFR § 270.30(l)(2)(ii)(B)."

Veolia's final federal permit contains the same condition as Heritage-WTI's final permit.

2. **Page 10, Condition II.A.4:** Veolia commented on Condition II.A.4 that Veolia maintains the Part A with all waste codes, but treatment standards are not part of this document. Veolia also noted that the Heritage-WTI draft federal RCRA Permit (April 2008) contains one paragraph on "other Federal RCRA Requirements" whereas Veolia has two pages which include this requirement for listing waste codes and treatment standards plus testing requirements, and storage and metals dilution prohibitions. Veolia proposed the following revision to this Condition:

".....The list must include all waste numbers handled by the facility and shall be updated through the inclusion....."

**U.S. EPA's Response:** Veolia must maintain treatment standards as well as waste codes. This information is necessary to assess compliance with 40 CFR § 268.7, which considers treatment standards as well as waste codes. The Heritage-WTI federal permit contains less requirements because that facility is located in Ohio. The State of Ohio has been authorized for all provisions of Land Disposal Restrictions (LDR). Their State issued permits include all LDR requirements. Since the State of Illinois has not yet authorized for all LDR requirements, Section II - Land Disposal Restrictions (40 CFR Part 268) was included in the Veolia's permit, but not in Heritage-WTI's draft federal permit.

3. **Page 11, Condition II.C:** Veolia requested the inclusion of two conditions (i.e., II.C.4 and II.C.5) stipulated in the 2003 draft permit for the storage of PCB wastes. Condition II.C.4 allows storage of restricted wastes beyond 1 year for facilitating proper recovery, treatment or disposal. Condition II.C. 5 allows storage of liquid hazardous waste containing PCBs at concentration equal or greater than 50 ppm if the requirements of 40 CFR 761.65(b) are met.

**U.S. EPA's Response:** U.S. EPA added these two conditions in the final permit as set forth in 40 CFR § 268.50 (c) and (f). We have also included references to these regulations.

4. **Pages 12-18, Condition IV-Air Emission Standards (40 CFR Part 264, Subpart CC):**

4-1 Veolia commented that the draft federal permit does not take into account the option of complying with applicable Clean Air regulations under 40 CFR Part 60, 61 or 63 as an alternative to complying with Subpart CC. Veolia proposed to replace Condition IV-Air Emission Standards with conditions in the draft permit for Heritage-WTI, Inc.

4-2 Veolia requested inclusion of the conditions included in the Heritage-WTI, Inc. draft federal permit.

**U.S. EPA's Response:** U.S. EPA has modified/updated the conditions for Air Emission Standards in Section IV, to provide Veolia this option. The final Veolia permit will contain conditions similar to the final permit issued to Heritage-WTI, Inc., except for site specific conditions.

Including the additional Heritage-WTI, Inc. conditions requested by Veolia will provide additional safety and protection to human health and the environment. Therefore, Veolia's request is approved. Identification of tanks in the tank farms is not included in Veolia's final permit, because they were site specific to the Heritage-WTI, Inc. facility.

**C. CHANGES TO THE DRAFT PERMIT**

1. "Draft" in the header was deleted from the draft permit, because such references are not needed in the final Federal permit and the corresponding Table of Content to reflect the changes that were made below.

2. **Condition 1.A, page 1 of 18**

The first paragraph was revised as follows: "This permit contains the federal permit conditions. The Permittee also needs a State RCRA permit. You are hereby allowed to manage hazardous waste in accordance with both permits. Under this permit, the storage and treatment of RCRA hazardous waste must comply with all air emission standards and all other terms and conditions in this permit. (Other aspects of the storage and treatment of RCRA hazardous wastes in containers, tanks, miscellaneous units, etc., are subject to the conditions in the state-issued portion of the RCRA permit.) Any hazardous waste activity not covered by this permit or the state RCRA permit is prohibited when such activity requires a RCRA permit.

The following phrase was deleted in the third paragraph: "...from any imminent and substantial endangerment to human health, welfare, or the environment. (40 CFR §§ 270.4 and 270.30(g))"

The reasons for this revision are described under B.1 above.

3. **Condition I.E.12.b, page 5 of 18**

This Condition was revised to read: "The Director waives inspection and the Permittee may commence treatment, storage, or disposal of hazardous waste in accordance with 40 CFR § 270.30(l)(2)(ii)(B).

The reasons for this revision are described under B.2.1 above.

4. **Condition II.C.4 and II.C.5, page 11 of 18**

The following two Conditions were added:

II.C.4 Pursuant to 40 CFR § 268.50(c) and (f), you may store restricted wastes beyond 1 year; however, you bear the burden of proving that such storage was solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recover, treatment or disposal.

II.C.5 You must not store any liquid hazardous waste containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm unless the waste is stored in a storage facility that meets the requirements of 40 CFR § 761.65(b). This waste must be removed from storage and treated or disposed as required by 40 CFR Part 268 within 1 year of the date when such wastes are first put into storage. (40 CFR § 268.50(f))

The reasons for this revision are described under B.2.3.

5. **Condition III.A, page 11 of 18**

This Condition was revised to read:

**III.A.1** In addition to the hazardous waste numbers listed in the State-issued portion of the RCRA permit, you may handle the following hazardous wastes K169, K170, K171, K172, K174, and K175, which were promulgated under HSWA, in accordance with the applicable requirements of both the State-issued and Federally issued portions of the RCRA Permit.

This is to clarify that the waste must be handled consistent with the permit. Condition III.A.2 was dropped because the U.S. EPA has recently updated RCRA permit general conditions for clarity and consistency with the regulatory language, which governs. The permit does not provide for the handling of hazardous waste(s) to be listed. The old language anticipated modifications.

6. **Condition IV-Air Emission Standards (40 CFR Part 264, Subpart CC): Page 12 of 18,**

Condition IV-Air Emission Standards was revised to read:

**IV.A GENERAL**

**IV.A.1** If a hazardous waste management unit is equipped with and operating air emission controls in accordance with the requirements of an applicable Clean Air Act regulation under 40 CFR Part 60, 61, or 63, you may elect to exempt the unit from regulation under Section IV of this permit if you provide a certification that the hazardous waste management unit is equipped with and operating air emission controls in accordance with such requirements. Such certification must be renewed annually and shall specify the regulations under 40 CFR Part 60, 61, or 63 that require the air emission controls. (40 CFR § 264.1080(b)(7))

**IV.A.1.a** As required by 40 CFR § 264.1089(j), you must retain at the facility for each such unit a copy of the current certification. Such certification must be provided to U.S.

EPA's representative or designee upon request. These documents shall be retained in the manner and for the period specified in 40 CFR § 264.1089(a).

**IV.A.1.b** If the tank is one for which the air emission control includes an enclosure, the tank must be in compliance with the requirements of 40 CFR § 264.1084(i) or § 264.1082(c)(5).

**IV.A.2** Each tank or container in which hazardous wastes are placed must comply with the terms and conditions of this Section IV, unless you make the election in, and satisfy all the requirements of, Condition IV.A.1 above for the tank, container, closed vent system or control device.

**IV.A.3** You must comply with the terms and conditions of this Section IV for any tank, container, closed vent system or control device, notwithstanding any election and certification under Condition IV.A.1 above, in the following circumstances:

**IV.A.3.a** the regulation under 40 CFR Part 60, 61, or 63 on which the election and certification under Condition IV.A.1 depend is no longer applicable to the tank or container; or

**IV.A.3.b** the regulation under 40 CFR Part 60, 61, or 63 on which the election and certification under Condition IV.A.1 depend, although applicable to the tank or container, does not or no longer requires that air emissions from the tank or container be controlled.

When either condition in Condition IV.A.3.a or IV.A.3.b occurs, you must immediately comply with the terms and conditions of this Section IV for such tank, container, closed vent system or control device, and continue compliance until neither condition in Condition IV.A.3.a or IV.A.3.b applies for the tank or container and the conditions in Condition IV.A.1 are again satisfied.

## **IV.B WASTE DETERMINATION**

**IV.B.1** You must determine the average volatile organic (VO) concentration of: (1) generated hazardous waste at the point of origination, and (2) treated hazardous waste, in accordance with the procedures specified in 40 CFR § 264.1083.

**IV.B.2** You must determine the maximum organic vapor pressure of a hazardous waste in a tank as specified in 40 CFR §§ 264.1084(c) and 265.1084(c)(2) through (c)(4).

**IV.B.3** The procedure for determining no detectable organic emissions must be conducted in accordance with 40 CFR § 265.1084(d).

## **IV.C TANKS**

### **IV.C.1 General**

**IV.C.1.a** You must control air pollutant emissions from each hazardous waste storage tank in accordance with standards specified in 40 CFR §§ 264.1080 through 1082, 264.1084 and 264.1087 through 264.1090, except as specifically provided otherwise in this permit. The tanks used for storage of hazardous waste must be designed, constructed, and maintained consistent with applicable industrial standards to ensure their integrity and safety.

**IV.C.1.b.** You are authorized to store hazardous wastes with an average VO concentration at the point of origination of equal or greater than 500 ppmw in the tanks as described in the Part B Application in accordance with the provisions of this permit.

#### **IV.C.2. Air Emission Control Requirements**

(1) The hazardous waste tanks must meet the Level 2 tank standards as stipulated under 40 CFR §§ 264.1084(d)(3) and 264.1084(g)(l) through (3), including but not limited to the requirements to inspect and monitor the air emission equipment for the tank and keep records of the inspections. You must comply with the requirements of 40 CFR § 264.1084(j). You must comply with the applicable requirements of 40 CFR §§ 264.1088, 264.1089, and 264.1090 for such tanks.

(2) All tanks must meet the industrial standards established for such tanks by the American Society of Mechanical Engineers (ASME), American Petroleum Institute API), or other equivalent standards.

#### **IV.C.3 Bulk Solid Storage Tanks**

**IV.C.3.a** Hazardous solid wastes delivered to the bulk solids storage tanks must be placed within the storage pits based on design factors such as angle of repose to prevent overflow. Hazardous wastes that are spilled or tracked inside the enclosure must be collected and stored in the pits or managed in accordance with the state-issued permit.

**IV.C.3.b.** No hazardous wastes containing free liquids (as defined in 40 CFR § 260.10) or treated with free liquids may be stored in the Bulk Solid Storage Tanks. The presence of free liquids is determined by the paint filter test (40 CFR § 264.314, SW-846 Method 9095B), a visual examination, or other appropriate means.

**IV.C.3.c** The tanks must be located inside an enclosure and vented to a control device (the incinerator and/or carbon adsorption system) meeting the requirements of 40 CFR Part 61, Subpart FF -National Emission Standards for Benzene Waste Operations for a facility at which the total annual benzene quantity from the facility waste is equal to or greater than 10 megagrams per year, as specified in 40 CFR § 264.1082(c)(5). The enclosure and control devices must have been installed and commenced operating before November 25, 1996.

**IV.C.3.d** The enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure as specified in "Procedure T -Criteria for and verification of a Permanent or Temporary Total Enclosure" under 40 CFR § 52.741, Appendix B. (40 CFR § 264.1082(c)(5))

**IV.C.3.e** You must perform the verification procedure for the enclosure as specified in Section 5.0 to "Procedure T -Criteria for and Verification of a "Permanent or Temporary Total Enclosure" annually.

**IV.C.3.f** You must meet the requirements of 40 CFR §§ 264.1088 through 1090 for the bulk solids storage tanks.

## **IV.D CONTAINERS**

### **IV.D.I Requirements for Level I Container Standards**

Except as specified in Conditions IV.D.2 and IV.D.4 below, you must manage hazardous waste placed in containers having a design capacity greater than 0.1 m<sup>3</sup> in accordance with the Container Level 1 standards, as stipulated under 40 CFR § 264.1086(c). A level 1 container must:

**IV.D.I.a** meet the applicable U.S. Department of Transportation (DOT) regulations as specified in 40 CFR § 264.1086(f),

**IV.D.I.b** be equipped with a cover and closure devices with an acceptable tightness and construction materials in accordance with 40 CFR § 264.1086(c)(l)(ii), or

**IV.D.I.c** be an open-top container with organic vapor suppressing barrier to prevent hazardous waste from being exposed to the atmosphere as specified in 40 CFR § 264.1086(c)(l)(iii).

Containers that do not meet the DOT regulations as specified in 40 CFR § 264.1086(f) must be equipped with covers and enclosure devices suitable for the physical and chemical characteristics of hazardous waste in containers, for maintaining container integrity throughout the life of the container, and for the environments under which the containers are placed in the storage facility. Any chemical used for vapor suppression must not generate heat and/or fume and must be compatible with the hazardous waste in the container. Vapor suppression chemicals must act as an acceptable and stable barrier to the hazardous waste, thus preventing release of VO into the environment. The barrier shall not chemically react with the hazardous waste. (40 CFR § 264.1086(c)(2)).

**IV.D.I.d** All covers and closure devices must be in the closed position whenever hazardous waste is in a container. Opening of a closure device or cover is allowed if it meets the purposes and operates as provided in 40 CFR § 264.1086(c)(3)(i) through (v).

**IV.D.I.e** You must inspect and repair the containers and their covers and closure devices in accordance with 40 CFR § 264.1086(c)(4).

**IV.D.I.f** For any container with a capacity of 0.46 m<sup>3</sup> or greater that you are managing under the Level I container standards in the Condition IV.D.I and that does not meet the requirements in Condition IV.D.I.a above, you must maintain at the facility a copy of the procedure that you used to determine that the container is not managing hazardous waste in "light material service," as defined in 40 CFR §§ 264.1081 and 265.1081. (40 CFR § 264.1086(c)(5))

### **IV.D.2 Requirements for Level 2 Container Standards**

**IV.D.2.a** Containers with a design capacity greater than 0.46 m<sup>3</sup> (122 gallons) and in light material service as defined in 40 CFR § 265.1081 must be managed in accordance with Container Level 2 standards as stipulated under 40 CFR § 264.1086(d). A Level 2 container must:

(1) meet the applicable U.S. Department of Transportation (DOT) regulations as specified in 40 CFR § 264.1086(f),

(2) operate with no detectable organic emissions as defined in 40 CFR § 265.1081 and determined in accordance with the procedure specified in 40 CFR § 264.1086(g), or

(3) be vapor tight as demonstrated within the preceding 12 months by using 40 CFR Part 60, Appendix A, Method 27 in accordance with the procedures specified in 40 CFR § 264.1086(h). (40 CFR § 1086(d)(1)(iii))

**IV.D.2.b** Transfer of hazardous waste in or out of a container must be conducted using an engineered method generally accepted and practiced by the industry, or its equivalent method to minimize the release of organics into the atmosphere. (40 CFR § 264.1086(d)(2))

**IV.D.2.c** All covers and closure devices must be in closed position whenever hazardous waste is in a container. Opening of a closure device or cover is allowed if it meets the purposes and operates as provided in 40 CFR § 264.1086(d)(3)(i) through (v).

**IV.D.2.d** You must inspect and repair the containers and their covers and closure devices in accordance with 40 CFR § 1086(d)(4).

**IV.D.3** You must meet the applicable requirements of 40 CFR §§ 264.1088 through 264.1090 for containers described in Conditions IV.D.1 and IV.D.2.

**IV.D.4** You are not authorized to treat any hazardous waste in any container whose design capacity is greater than 0.1 m<sup>3</sup> by waste stabilization process.

#### **IV.E CLOSED-VENT SYSTEM AND CONTROL DEVICES**

**IV.E.1** Closed-vent Systems and control devices shall comply with the requirements in 40 CFR §§ 264.1087 and 264.1033.

**IV.E.2** You must demonstrate compliance with the minimum 95% removal efficiency of the total organic content of the inlet vapor stream vented to the carbon adsorption system. The planned routine maintenance of the carbon adsorption system, during which the 95% removal efficiency cannot be met, shall not exceed 240 hours per year. (40 CFR § 264.1087((c))

**IV.E.3** The carbon adsorption system shall have a minimum removal efficiency of 95% in accordance with 40 CFR § 264.1033(c).

**IV.E.4** The carbon adsorption system shall be inspected and monitored in accordance with 40 CFR § 264.1088 by detector devices (e.g., flame ionization, photoionization, infrared adsorption) that meet the requirements specified in 40 CFR Part 60, Appendix A, Method 21.

**IV.E.5** After the carbon adsorption system beds are spent, the spent carbon must be treated and or disposed of in a RCRA permitted TSD facility. All carbon removed from the control devices shall be handled as a hazardous waste.

**IV.E.6** The closed vent system shall not include any bypass devices that could be used to divert the gas or vapor stream to the atmosphere before entering the control device.

The reasons for this revision are described under B.2.4 above.

**Page 17, Condition IV.E** The change in the numbering of this provision (from a subset of IV.C. to a new subsection IV.E.) clarifies that it applies to containers as well as tanks.

#### **D. DETERMINATION**

Base on a full review of all relevant data provided to the U.S. EPA, the U.S. EPA has determined that the final permit contains such terms and conditions necessary to protect human health and the environment