Ohio EPA

Division of Materials and Waste Management

Response to Comments

Project: Veolia ES Technical Solutions, L.L.C., Hazardous Waste Permit Renewal
US EPA ID #: OHD093945293
Ohio I.D. #: 05-57-0056

Agency Contacts for this Project

Division Contact: Jeff Smith, Southwest District Office, Division of Materials and Waste Management, (937) 285-6070, Jeff.Smith@epa.ohio.gov

Public Involvement Coordinator: Darla L. Peelle (614) 644-2160, darla.peelle@epa.ohio.gov

Ohio EPA held a public meeting and public hearing on August 22, 2013, regarding Veolia ES Technical Solutions, LLC hazardous waste permit renewal. This document summarizes the comments and questions received at the public hearing and the associated comment period, which ended on September 6, 2013, along with supplying Ohio EPA's responses to those questions or comments supplied during the public comment period.

Ohio EPA reviewed and considered all comments received during the public comment period. By law, Ohio EPA has authority to consider specific issues related to protection of public health and the environment. Often, public concerns fall outside the scope of that authority. Ohio EPA may respond to those concerns in this document by identifying another government agency with more direct authority over the issue.

In an effort to help you review this document, the questions are grouped by topic and organized in a consistent format.

Comment 1: Concerns from the general public regarding rebuilding the facility after the May 4, 2009, explosion and fire.

Response 1: Under Ohio's hazardous waste laws, the Director is obligated to determine that a hazardous waste permit applicant has a history of compliance and sufficient reliability, expertise, and competency to operate the facility.
Permittee returned to compliance after the explosion and fire and has operated the facility in an environmentally safe and protective manner.

Since the 2009 incident, several permit modifications were submitted by the Permittee, and subsequently reviewed/approved by Ohio EPA, which authorized rebuilding the damaged portion of the facility. Each of these modification actions included a public comment period for gathering public input on the rebuilding activities. For more detailed information on the various modifications, readers are encouraged to contact Mr. Jeff Smith via the contact information noted above.

Comment 2: One citizen would like better notification regarding the public meetings and better coordination with the community.

Response 2: Ohio EPA believes active community engagement is critical to the permitting process and makes efforts to reach out to all potential concerned citizens. There are specific public notification requirements and time frames as prescribed in Ohio Administrative Code 3745-50-40 which Ohio EPA must follow. Also, in an effort to reach additional households, Ohio EPA provided news releases and mailed a citizen advisory to all residences within one-half mile of the Veolia facility. Lastly, citizens can make a request to be on the hazardous waste permitting mailing list for a particular facility by contacting Laura Morgan of Ohio EPA’s Central Office by calling (614) 644-2944 or via e-mail at laura.morgan@epa.ohio.gov.

Comment 3: Citizens expressed concerns about odors at the facility and their desire for better access to information regarding air emissions and information from the local fire department.

Response 3: In general, air emission requirements are overseen by the local air agency at the Montgomery County Health District. The local air agency can be contacted at the following number: (937) 225-4435. Additional air-related requirements that apply to this facility are within U.S. EPA’s jurisdiction. U.S. EPA air emissions staff can be reached at the following number: 1 (800) 621-8431.
Comment 4: Citizens expressed concerns that this public hearing was a formality and the Permit was going to be issued regardless.

Response 4: Ohio EPA considers active community engagement critical to the permitting process. Ohio EPA critically evaluates every comment received during the public comment period and from the hearing before making a final decision on the permit renewal. Responses to the comments received are what make up this Response to Comments document, and outline the Agency's basis for supporting today's permit renewal.

Comment 5: One citizen addressed concerns about security at the facility.

Response 5: Today's final permit approval includes requirements for site security measures such as fencing and access control. There is a formal access process for authorized personnel that must be followed when entering and leaving the facility. Unauthorized personnel are not permitted access to the site.

Comment 6: The Citizens expressed concerns that Veolia be a better neighbor.

Response 6: As noted above, pursuant to Ohio's hazardous waste laws, the Director is obligated to determine that a hazardous waste permit applicant has a history of compliance and has exhibited sufficient reliability, expertise, and competency to operate the facility. The Director is also required to issue a permit which is protective of human health and the environment. Through today's permit approval, Ohio EPA has affirmed these standards governing permit issuance.

Comment 7: One citizen stated that he had asked about the probability of another explosion and that the Ohio EPA "could not tell me anything at all in regards to what may or may not be as the company is today" and stated that Ohio EPA "couldn't tell me anything about what the probability of the explosion was in '09 or even before that whenever they renewed the permit before."

Response 7: As envisioned by the U.S. Congress via enactment of the Resource Conservation and Recovery Act (RCRA, 1976)
Ohio's hazardous waste program is a prevention-focused approach. No release, fire or explosion of hazardous waste is ever deemed acceptable or evaluated from a probability perspective. The conditions and requirements in today's permit go toward proper management and operation of a facility to prevent releases and threats to human health and the environment.

However, not every possible scenario can be foreseen, nor can every potential harmful scenario be avoided. When incidents like the 2009 fire and explosion happen, Ohio EPA responds accordingly, evaluates the conditions that led to the incident and then works with the facility and community to take steps to minimize the potential for future such incidents.

Comment 8: The facility owner Veolia ES Technical Solutions, L.L.C. sent in a letter dated September 5, 2013 with written comments. The first comment from Veolia requested a change to the language of the draft Permit; specifically, the material in the hydrapulper will not be transferred by pressurizing the unit.

Response 8: Ohio EPA concurs with the comment. The final permit was revised to show that the material will be transferred only by pumping.

Corrective action

Comment 9: Veolia's second comment in the letter dated September 5th proposed changes to Module E: Corrective Action Requirements to accurately reflect the current status at the site. Veolia provided a complete re-write of Section E as a suggestion.

Response 9: The Division of Environmental Response and Revitalization has reviewed the draft of Module E provided as a comment by Veolia. The Veolia draft Module E conforms, in part, to the draft permit issued by Ohio EPA in July of 2013. Veolia has provided additional site-specific detailed information which accordingly has been added in its entirety to the narrative section of Module E under the heading of ‘Corrective Action Requirements’.
Since Veolia made its suggested changes directly onto the Agency’s May 2006 boilerplate instead of the July draft permit issued by Ohio EPA, Veolia has suggested conditions or changes to edit conditions not originally found in the Agency’s July draft permit. Veolia’s suggested change to Condition E.1 of the Agency’s draft permit will not be incorporated into the final permit because the language is outdated. The minor change in Condition E.2 is accepted. Veolia suggested language to Condition E.3 identifying WMUs and areas of investigation; Ohio EPA accepts this language but has replaced the term Solid Waste Management Unit (SWMU) with Waste Management Unit (WMU). Veolia suggested striking Condition E.4 in its entirety; this change is unnecessary as the July draft permit condition E.4 already states “Reserved”.

In Condition E.5, Veolia suggests language updating the current investigation effort and language eliminating the need to do an RFI in order to identify the nature and extent of a release from newly identified WMUs. Ohio EPA accepts the language updating the status of the RCRA facility investigation and does not accept language eliminating the requirement for an RFI for newly identified WMUs. Condition E.5 has been modified to state:

“The Permittee must conduct an RFI to evaluate the nature and extent of releases of hazardous wastes and hazardous constituents from all applicable WMUs. With the exception of the SWMU 5 (eliminated from further investigation through a Release Assessment), the Permittee has conducted an RFI and IMs to address releases from WMUs identified in Permit Condition E.3(a) above. Following the 2009 incident and subsequent IMs, Ohio EPA has requested additional investigation at the areas identified in E.3(b) above. This work will be conducted through a supplemental RFI. In the event that newly discovered WMUs or releases are identified at the facility, the Permittee will conduct a subsequent RFI to evaluate the nature and extent of releases of hazardous waste(s) and hazardous constituent(s) associated with such areas, in accordance with Condition E.11.

The major tasks and required submittal dates are shown below. The scope of work for each of the tasks associated with RFI-related activities is found in U.S. EPA’s RCRA Corrective Action Plan.

OHIO EPA - DMWM
DEC. 31 2013
(a) **RFI Workplan**

In the case of a newly discovered waste management unit, the Permittee shall submit a written RFI Workplan on a timeframe established by Ohio EPA.

(i) If necessary, Ohio EPA shall provide written comments on the current supplemental investigation; or in the case of a newly discovered waste management unit, comments on the RFI Workplan for the new unit.

(ii) Within sixty (60) days of receipt of Ohio EPA's comments, the Permittee shall submit either an amended or new workplan that incorporates Ohio EPA's comments; or in the case of a newly discovered waste management unit, an amended or new RFI Workplan.

(iii) Ohio EPA shall approve or modify and approve, in writing, the amended or new workplan; or in the case of a newly discovered waste management unit, the amended or new RFI Workplan. The RFI Workplan, as approved or as modified and approved, shall be incorporated into this permit and become an enforceable condition of this permit. Subsequent changes to the approved RFI Workplan for a newly discovered unit must be authorized by Ohio EPA.

(b) **RFI Implementation**

The Permittee shall implement the RFI Workplan according to the terms and schedule in the approved RFI Workplan.

(c) **RFI Final Report**

Within ninety (90) days after the completion of the RFI, the Permittee shall submit an RFI Final Report to Ohio EPA. The RFI Final Report shall describe the procedures, methods, and results of the RFI. The Final Report must contain adequate information to
support further decisions concerning corrective action at the Facility.

(i) If necessary, Ohio EPA shall provide written comments on the RFI Report to the Permittee.

(ii) Within sixty (60) days of receipt of Ohio EPA's comments, the Permittee shall submit either an amended or new RFI Report that incorporates Ohio EPA's comments.

(iii) Ohio EPA shall approve or modify and approve, in writing, the amended or new RFI Report. The RFI Report, as approved or as modified and approved, shall be incorporated into this permit and become an enforceable condition of this permit. Subsequent changes to the approved RFI Report must be authorized by Ohio EPA."

Veolia proposes to delete some language not originally contained Condition E.6 of Ohio EPA's July draft permit. Deleting text not contained in the draft permit is unnecessary.

Additionally, Veolia appears to propose deletion of language contained in Condition E.6 of Ohio EPA’s draft permit, but the changes are not redlined or otherwise explained. Ohio EPA considered these proposed changes as unintentional mistakes and no change was made in the final permit.

Veolia proposes language to reference Corrective Action Tasks in Section E of the Permit rather than the Schedule of Compliance of the Permit. This change has been accepted by Ohio EPA and the affected portion of the affected permit Condition E.7(a) shall read as follows:

"Based on the results of the completed RFI and other relevant information, the Permittee may submit an application to Ohio EPA for a permit modification under OAC Rule 3745-50-51 to terminate the Corrective Action tasks which are enumerated throughout Section E of the permit. The class of the permit modification will be determined in accordance with OAC Rule 3745-50-51. Other tasks
identified in Section E shall remain in effect. This permit modification application must conclusively demonstrate that there are no releases of hazardous waste or constituents that pose a threat to human health and the environment.

Veolia appears to propose additional changes to Condition E.7 (a), (b) and (c) of Ohio EPA's July draft permit which are not redlined or otherwise explained. Ohio EPA considered these proposed changes as unintentional mistakes and no change was made in the final permit.

Veolia proposes to eliminate the requirement for a Corrective Measures Study in Condition E.8 if, for example, the Permittee elects to pursue a presumptive remedy instead of conducting a CMS. Ohio EPA cannot agree to eliminate the requirement to have a CMS at the election of the Permittee. The Permittee may propose/pursue a Presumptive remedy in the context of a CMS wherein some of the phases of the CMS are modified to accommodate the presumptive remedy. The CMS is needed as it allows the Agency to determine whether the presumptive remedy is applicable and suited for the site. Also, the availability of presumptive remedies does not preclude Ohio EPA from expanding the CMS (either on its own initiative or at the suggestion of outside parties) to consider other technologies under unusual site-specific circumstances. As a result, this proposed change will not be accepted.

Veolia requested a new 60 day time frame for submissions of documents in Condition E.8(a)(ii) and E.8(c)(ii). Ohio EPA accepts these as a minor modification to the permit. Veolia appears to propose additional changes to Condition E.8 of Ohio EPA's July draft permit which are not redlined or otherwise explained. Ohio EPA considered these changes as unintentional mistakes and no change was made in the final permit.

Veolia requested a new 45 day time frame for submissions of Financial Assurance documents in Condition E.9(b). Ohio EPA accepts this as a minor modification to the permit. Veolia appears to propose additional changes to Condition E.9 of Ohio EPA's July draft permit which are not redlined or otherwise explained. Ohio EPA considered these changes as unintentional mistakes and no change was made in the final permit.
Veolia requested a new 45 day time frame for submissions of Release Information documents in Condition E.10(b). Ohio EPA accepts this as a minor modification to the permit. Veolia proposed additional changes to Condition E.10 of Ohio EPA's July draft permit which are not redlined or otherwise explained. Ohio EPA considered these proposed changes as unintentional mistakes and no change was made in the final permit.

Veolia appears to propose additional changes to Conditions E.11 and E.12 of Ohio EPA's July draft permit which are not redlined or otherwise explained. Ohio EPA considered these changes as unintentional mistakes and no change was made in the final permit.

Veolia proposes to edit language in Condition E.13. There was no such condition in Ohio EPA's July draft permit. Editing text for a condition not contained in the draft permit is unnecessary.

The proposed language in draft Module E is acceptable and accurate and complete.

Comment 10: Ohio EPA caught a spelling error in the draft Permit in Section C.4.

Response 10: This has been corrected.

No other comments were received.

End of Response to Comments
On December 31, 2013, the director of Ohio EPA issued a final Hazardous Waste Installation and Operation Permit (Permit) Renewal to Veolia ES Technical Solutions, LLC (Veolia) for their facility located at 4301 Infirmary Road, West Carrollton, Ohio. The EPA ID No. for the facility is OHD093945293. The renewal permit authorizes the Permittee to store up to 158,400 gallons of containerized hazardous waste in two container storage areas. Additionally, the facility is authorized to store and treat 462,000 gallons of hazardous waste in forty tanks. To issue this final permit, Ohio EPA determined that the Permit application is complete and meets appropriate standards and that the applicant has a history of compliance with relevant environmental laws. This authorization is subject to all the rules, regulations, and specified conditions.