

Hazardous Waste Incinerator/Clean Air Act: U.S. EPA Environmental Appeals Board Addresses Petition Challenging Title V Permit



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The United States Environmental Protection Agency (“EPA”) Environmental Appeals Board (“EAB”) issued a July 21st Order addressing a Petition by the American Bottom Conservancy (“Conservancy”) which challenged the issuance (renewal) of a Clean Air Act Title V permit to a Veolia ES Technical Solutions, LLC (“Veolia”) hazardous waste incinerator (“Incinerator”). See CAA Appeal No. 19-01.

The Conservancy Petition addressed a Veolia hazardous waste incinerator located in Sauget, Illinois.

The Veolia Incinerator is described as a commercial hazardous waste incinerator which includes three combustion units. The Incinerator is required to both obtain and operate in compliance with a Title V permit because it is a major source of hazardous air pollutants and subject to the National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

EPA had previously issued a Title V permit for the facility in September 2008. The permit being challenged by the Conservancy is a renewal of the permit. It was issued in June 2019.

The Conservancy Petition raised two principal issues in challenging the renewed permit. These include:

- EPA erred in omitting a provision from the renewed permit that would have required the Incinerator to implement a 12-month program to monitor emissions of certain metals from its three combustion units.
- EPA erred in revising the renewed permit’s feedstream analysis requirements to allow the Incinerator to designate certain feedstreams of waste as “non-suspect” (arguing this subjects the Incinerator to less rigorous testing and analysis requirements).

The EAB rejects both arguments. It concludes:

- Conservancy has not demonstrated clear error with respect to EPA’s decision not to require Veolia to implement a multi-metals monitoring program (recognizing while a Title V permit must require sufficient monitoring to assure compliance there was not a demonstration that it was error to not add a multi-metals monitoring program to the Title V permit).
- Conservancy did not demonstrate clear error with respect to EPA’s decision to revise the feedstream analysis requirements (inability to show why permit procedures for exempt waste are insufficient or any basis for the EAB not to defer to EPA’s technical expertise on the issue).

As a result, EAB denies the Conservancy’s Petition.

A copy of the Order can be downloaded [here](#).