

U.S. EPA Environmental Appeals Board: Sauget, Illinois Commercial Hazardous Waste Incinerator Petition for Review of Title V Permit



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Veolia Es Technical Solutions, L.L.C. (“Veolia”) filed a February 15th Petition for Review (“Petition”) before the United States Environmental Protection Agency (“EPA”) Environmental Appeals Board (“EAB”) of a Title V Clean Air Act permit (“Permit”).

The Permit was issued by EPA Region 5 for the operation of three commercial hazardous waste incinerators (“incinerators”).

Veolia describes what it characterizes as two fatal flaws in regards to the Permit issued by EPA. Quoting the Petition in part, Veolia states as its first argument:

Region 5 admits that the Permit fails to comply with a primary Clean Air Act requirement:

EPA has determined that current information demonstrates that the [permit’s Operating Parameter Limits] cannot assure continuous compliance with the [Hazardous Combustor] HWC NESHAP emission limits in this case.

Second, the company argues:

...Region 5 has also undermined the compliance method set forth in the HWC MACT for establishing OPLs. Pursuant to the HWC MACT, emission sources must set a OPLs through performance testing – specifically, CPTs. OPLs govern the operation of HWCs to “assure compliance” with emission limits. All HWCs, including Veolia, must use this compliance method. Notwithstanding the bedrock principle of the HWC MACT, Region 5 has significantly undercut the core methodology of developing and complying with OPLs by forcing Veolia to install costly (over #2 million) and unverified multi-metals monitors in all three of its incineration units in an after-the-fact effort to modify Veolia’s OPLs for metals. Region 5 lacks the legal authority and substantial factual basis to acquire these monitors. Neither the HWC MACT nor Title V vests Region 5 with the legal authority to force Veolia to purchase and install these monitors and Region 5’s permitting decision to require them is based on unproven, unfounded and erroneous allegations of non-compliance by Veolia.

More detailed arguments raised in the petition include:

- Region 5 Rewrites the HWC MACT without Proper Rulemaking
- The Permit Compares Averages to Averages which Mask Variability and Defeats Region 5’s Alleged Reason for the Monitoring Devices

- The Permit Unlawfully Requires the Use of Data for the Non-method 29 Compliant Multi-metals Monitors to Determine Accuracy of OPLs in the Permit Set by CPTs Utilizing Method 29
- The HWC MACT and Title V do not Authorize Region 5 to Force Veolia to Implement an Enhanced FAP and Install Multi-metals Monitors
- Region 5's Permitting Actions Exceed its Authority under Title V
- Region 5's Decision is Constitutionally Inadequate as Applied to Veolia
- The Variability of Veolia's Emissions are Consistent with other HWCs and Veolia's Mercury Emissions are Very Small
- Region 5 Cannot Conclude that Veolia is Likely to Violate the HWC MACT by Making Baseless Allegations and then Relying on them as True
- Veolia Demonstrates Compliance with the Clean Air Act Through CPTs Using Method 29 as the Only Promulgated Method to Establish Compliance with the HWC MACT; Conversely the Multi-metals Devices are Approved Nowhere to Establish Anything
- CPTs are EPA's Required Method for Setting Correlations Between Feedrate and Emissions Under Worse Case Scenarios
- Three Non-method 29 Compliant Multi-metals Monitors with Unproven Functionality Poses Significant Financial Risk to Veolia

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