MEMBER COMPANIES

Clean Harbors Environmental Services
Dow Chemical U.S.A.
E. I. Du Pont de Nemours
Eastman Chemical Company
INVISTA S.àr.l.
3M
Ross Incineration Services, Inc.
Veolia ES Technical Services, LLC

GENERATOR MEMBERS

Eli Lilly and Company

ASSOCIATE MEMBERS

AECOM
B3 Systems
Compliance Strategies & Solutions
Coterie Environmental, LLC
Focus Environmental, Inc.
Foster Wheeler USA
Franklin Engineering Group, Inc.
METCO Environmental, Inc.
SAIC
SGS Analytical Perspectives, LLC
Strata-G, LLC
TestAmerica Laboratories, Inc.
TRC Environmental Corporation
URS Corporation

INDIVIDUAL MEMBERS

Ronald E. Bastian, PE
Ronald O. Kagel, PhD

ACADEMIC MEMBERS
(Includes faculty from:)

Clarkson University
Colorado School of Mines
Lamar University
Louisiana State University
Mississippi State University
New Jersey Institute of Technology
University of California – Berkeley
University of Dayton
University of Kentucky
University of Maryland
University of Utah

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April 1, 2013

George Czerniak
U.S. EPA
77 W. Jackson Blvd. (A-18J)
Chicago, IL 60604.

Attn: Docket ID No. EPA-R05-OAR-2012-0649

The Coalition for Responsible Waste Incineration (CRWI) appreciates the opportunity to submit comments on Veolia ES Technical Solutions draft Title V Permit. CRWI is a trade association comprised of 23 members. Veolia ES Technical Solutions is a member of CRWI.

EPA is proposing to make major changes to Veolia's permit. CRWI has concerns about the following four issues associated with the draft permit.

1. EPA should not remove the term "NESHAP" in section 2.1(C)(1).

2. Region 5 should correct the discrepancies between the draft permit and the Statement of Basis, should allow for upward extrapolation of mercury feed rates, and calculate the mercury feed rate on actual analytical data rather than theoretical calculations.

3. Region 5 should not require the facility to install, calibrate, operate, and maintain a multi-metals CEMS.

4. Region 5 should modify the sampling and analysis requirements.

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Specific comments on each of the issues listed above are attached. Thank you for the opportunity to comment on this draft Title V permit. If you have any questions, please contact me at (703-431-7343 or mel@crwi.org).

Sincerely yours,

Melvin E. Keener, Ph.D.
Executive Director

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Specific Comments

1. EPA should not remove the term "NESHAP" in section 2.1(C)(1).

   On page 11 of the draft permit, Region 5 proposed to delete the term "NESHAP" in section 2.1(C)(1). We suggest that Region 5 reconsider deleting that term because if finalized as proposed, this provision will eliminate the ability to burn any waste containing beryllium. Since the Region talks about feed rates of beryllium in other sections of the draft permit and in the Statement of Basis, we do not believe this was intended. In this case "beryllium NESHAP containing waste" refers to waste that was generated when complying with the beryllium NESHAP. The language in the original permit was intentional and should be retained.

2. Region 5 should correct the discrepancies between the draft permit and the Statement of Basis, should allow for upward extrapolation of mercury feed rates, and calculate the mercury feed rate based on actual analytical data rather than theoretical calculations.

   In the Statement of Basis (see page 14), EPA proposes to allow upward extrapolation of the SVM and LVM feed rate used during the test to the historical highest 12-hour rolling average. EPA's decision was based on guidance provided in the preamble of the first hazardous waste combustor MACT final rule (64 Fed. Reg. 52,946-47, September 30, 1999). CRWI supports the decision by Region 5 to allow upward extrapolation for SVMs and LVMs. We would like to point out that there are two discrepancies on feed rate limits between the Statement of Basis, Table 2 (page 17) and the draft permit (page 12 of 134). For Unit 2, the Statement of Basis shows a feed rate limit for LVM as 68.5 lb/hr while the draft permit has a value of 84 lb/hr. For Unit 4, the Statement of Basis has a feed rate limit for SVM of 98.1 lb/hr while the draft permit has a value of 64 lb/hr. CRWI believes that this is a simple translation error and suggests that the Agency determine which one is correct.

   While Region 5 is allowing upward extrapolation of SVM and LVM, they are not using upward extrapolation for mercury. The stated reasons for this are that Unit 4 uses carbon injection and that the facility spiked mercury during the test runs. However, Units 2 and 3 do not have carbon injection. So the only reason Region 5 uses for not allowing extrapolation for Units 2 and 3 is on page 18 of the Statement of Basis.

   > Mercury was spiked as part of the comprehensive performance test. The intended purpose of metal spiking when conducting comprehensive tests is to enable a facility to verify compliance with MACT limits under worst-case conditions. To protect workers, EPA does not encourage unnecessary spiking of metals during comprehensive tests. Therefore, if a facility spikes metals when conducting comprehensive tests, the metal spike rates and the native mercury content of the waste should be used to set the feedrate limit with little or no

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> extrapolation, provided the corresponding stack emissions assure compliance with all MACT limits with an ample margin of safety.

(Statement of Basis at 18, footnotes omitted)

While part of this statement is correct (regarding the protection of workers), the statement that if a facility spikes metals during a test, the metal spike rates should be used is incorrect. If the Agency would go back to the same document they quote in justifying the upward extrapolation for SVM and LVM (the 1999 final rule) and look at footnote 240, they would find that EPA Headquarters fully intended for this method to apply to mercury as well:

> Footnote 240. Although this extrapolation discussion is presented in context of semivolatile and low volatile metal feedrates, similar provisions could be implemented for mercury feedrates.

(64 Fed. Reg. 52,946)

In addition, Region 5 contradicts EPA Headquarters guidance when they state that the spiked rate should be used in setting the feed rate limits. In the same quote from the 1999 rule that is in the Statement of Basis, EPA Headquarters states:

> Further, we expect that some spiking would be desired to increase confidence in the measured, performance test feedrate levels that will be used to project feedrate limits (i.e., the errors associated with sampling and analyzing heterogeneous feedstreams can be minimized by spiking known quantities).

(Statement of Basis at 14 and 64 Fed. Reg. 52,946)

Thus, under certain circumstances, spiking is desired to increase the confidence of the measurements and the extrapolated values. Region 5 has no basis for not allowing upward extrapolation of mercury feed rates and in fact, not allowing extrapolation for mercury is contrary to the guidance quoted by the Agency. Also, Region 5's current position that upward extrapolation of mercury is not allowed may have unintended consequences. If facilities cannot use upward extrapolation, they will be forced to spike mercury at higher rates than needed to get the operational flexibility required to operate. This will nullify all of the benefits (reduction of mercury emissions, protections of workers, purchase of excess mercury that must be disposed of later, etc.) from allowing upward extrapolation.

The technical basis for upward extrapolation is laid out in the Technical Support Document (Volume 4, Chapter 6.3, page 6-7) of the 1999 hazardous combustor final rule. There is nothing in the technical support document that sets an upper limit on extrapolation. In fact, EPA's graph (Figure 6.1) shows that upward extrapolation will be a conservative estimator of actual emissions at any level above where it is

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In addition, Region 5 modified the calculation of the spike rates to match the minimum purity of the reagent instead of using the actual laboratory analysis of the spiked materials (see footnote 2, Table 2, Statement of Basis, page 17). This is surprising since both Region 5 and the facility took samples of the spiking solutions. The facility analyzed these samples and used the analytical data to propose mercury feed rates. Surely actual analytical data on the amount of mercury fed is superior to a theoretical analysis. We see no reason to use theoretical calculation when actual analysis from either Veolia or EPA is available. CRWI strongly suggests that Region 5 recalculate the feed rates based on the analytical data from the test and allow upward extrapolation where appropriate (Units 2 and 3) to set the feed rate limits for mercury.

3. Region 5 should not require the facility to install, calibrate, operate, and maintain a multi-metals CEMS.

   Region 5 is proposing that Veolia install and operate a multi-metals CEMS for at least one year. CRWI has several concerns about this requirement.

   <u>It is inappropriate to use a Title V permit to force Veolia to install a multi-metals CEMS.</u>

   A Title V permit is supposed to be a compilation of emissions limits, monitoring requirements, and reporting requirements that are developed as a part of the regulations for that source category. This facility is regulated under Subpart EEE. A multi-metal CEMS is not required under Subpart EEE. We do not feel it is proper to use the Title V process to add entirely new and untested requirements, especially when the Agency has not provided adequate justification. The Agency has the authority to require a facility to install instruments and gather data for either

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EPA has made a number of statements on multi-metal CEMS that are incorrect, misleading or unsubstantiated.

In the Statement of Basis, the Agency makes several statements for which they have not provided any documentation to show that they are correct. In addition, there are a number of statements that are either incorrect or misleading. The statements that have no supporting documentation are listed below.

a. "The uncertainties caused by feedstream analysis are largely solved when an EPA-approved CEMS is used to directly measure emissions." (Statement of Basis at 21)
b. "Second, modern multi-metals CEMS have been shown to be more accurate and reliable than feedstream analysis for monitoring mercury and other hazardous metal emissions from combustion of heterogeneous feedstreams." (Statement of Basis at 22).
c. "Without a CEMS, most emission excursions from combustion of such heterogeneous feedstreams would go undetected." (Statement of Basis at 22).

The Agency has not provided any documentation or citations to show these statements to be correct. The courts have stated (*Northeast Maryland*, 358 F.3d at 954) that EPA must provide proof of its statements, not just make unsupported assertions. If everything the Agency said above were correct, one would assume that multi-metals CEMS would be required in a number of the recent combustion MACT rules. However, it is not required in any of them.

In addition, the Agency makes a number of statements that are either incorrect or misleading.

a. "Multi-metals CEMS are commercially available and have been demonstrated to be reliable for measuring mercury and other metal emissions from hazardous waste combustors." (Statement of Basis at 22).

   When the Statement of Basis was written, the Xact was offered by Pall Corporation. This is no longer correct. Pall no longer manufactures and sells the Xact unit. The marketing rights to the Xact have reverted to Cooper Environmental Services. It should also be noted that this instrument is not an instrument that is carried in inventory. If a facility wanted to purchase an Xact unit, Cooper Environmental Services has indicated that it would take them at least six months to build it. This is the time to build the instrument itself and does not include time to develop the site-specific sampling train or the time to develop the software interface between the instrument and the facility's control systems. The software development process (custom software for that site) would take several months after the instrument was installed. Only one Xact unit has been installed and operated for an extended period

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of time at only one hazardous waste combustor, the combustor at Evoniks Tippecanoe Laboratories. Due to frequent maintenance issues and equipment failure, that Xact unit is no longer operating.

b. "EPA has approved the use of multi-metals CEMS as alternative monitoring methodologies at hazardous waste combustors." (Statement of Basis at 22).

The Agency has approved alternative monitoring requirements for one hazardous waste combustor – not hazardous waste combustor**s** as stated. This process took three years for the facility to get approval. While the Army allowed the CEMS company to install and test an Xact unit on the Tooele Army Depot research and development furnace, it is not included as a part of the facility's permit nor has it been included as a part of HWC MACT testing (CRWI obtained this information from personal communications with the operating facility).

c. "EPA has performed side-by-side evaluations of multi-metals CEMS with EPA Method 29 of Appendix A–8 to 40 C.F.R. Part 60 at industrial waste incinerators and found good correlation between the two methods. 75 Fed. Reg. 31962 (June 4, 2010)." (Statement of Basis at 22-23).

This reference is from the proposed CISWI rule. The preamble of this proposed rule states.

> EPA believes multi-metals CEMS can be used in many applications, including CISWI. EPA has monitored side-by-side evaluations of multi-metals CEMS with EPA Method 29 of appendix A–8 of 40 CFR part 60 at industrial waste incinerators and found good correlation. EPA also approved the use of multimetals CEMS as an alternative monitoring method at hazardous waste combustors. EPA believes it is possible to adapt proposed PS–10 (Specifications and Test Procedures for Multi-metals Continuous Monitoring Systems in Stationary Sources) of appendix B of 40 CFR part 60 or other EPA performance specifications to allow the use of multimetals CEMS at CISWI. We request comment on the appropriateness of using multi-metals CEMS instead of initial performance tests coupled with PM CEMS and other surrogates. The procedures used in proposed PS–10 for the initial accuracy determination use the relative accuracy test, a comparison against a reference method. EPA is taking comment on an alternate initial accuracy determination procedure, similar to the one in section 11 of PS–15 using the dynamic or analyte spiking procedure.

While the statement above is in the proposed rule, the final rule did not require multi-metals CEMS. In the preamble of the final rule, EPA made the following statements in response to comments on including multi-metal CEMS.

> *[EPA] Response:* For the operations and facilities subject to the rule, we believe that the combination of periodic compliance emissions testing and

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> *[EPA] Response:* For the operations and facilities subject to the rule, we believe that the combination of periodic compliance emissions testing and

> continuous monitoring of operational and parametric control measure conditions is appropriate for assuring ongoing compliance. The rule allows a source owner or operator to install and operate CEMS in lieu of some testing and parametric monitoring requirements. This process requires source owners to propose site-specific monitoring plans for approval. These plans would include CEMS PS and periodic QA/QC steps to assure the quality of the alternative monitoring data. Currently, EPA has the requisite CEMS PS for Hg monitoring systems and not for multiple metals CEMS.

(76 FR 15,736, March 21, 2011)

John Cooper (the developer of the Xact technology) submitted extensive comments supporting the use of the Xact multi-metals CEMS. EPA's responses to comments document is EPA-HQ-OAR-0119-2494. EPA's responses to Mr. Cooper's comments with page numbers are below.

> [EPA] Response 5 [page 1074]. At this time, EPA does not have promulgated performance specifications for multimetal CEMS and thus the final rule does not contemplate a requirement to use such monitoring or address these monitors directly. See preamble Section III.C. for a discussion on the testing and monitoring requirements in the final rule. See also response to EPA-HQ-OAR-2003-0119-1133.2, excerpt 12.
>
> [EPA] Response 12 [page 1072]. We recognize and agree that an integrating multiple metals CEMS operates in a manner fundamentally different than the instrumental metals CEMS for which draft Performance Specification 10 was developed. Since EPA does not have a published performance specification for metals CEMS, instrumental or integrating, the source owner must prepare a site-specific monitoring plan in order to apply the metals CEMS option. The monitoring plan need not imitate existing CEMS performance specifications (e.g., sampling frequency) but should be structured to address those characteristic operations of the CEMS relecting (sic) the operating principle and associated QA/QC procedures.

In addition, the New York Department of Environmental Conservation (DEC) submitted a short comment opposing the use of multi-metals CEMS. They state, "The DEC believes that multi-metals and PM CEMS are inadequate to indicate the complex nature of incinerator emissions." [page 1078]. EPA responded:

> For the operations and facilities subject to the rule, we believe that the combination of periodic compliance emissions testing and continuous monitoring of operational and parametric control measure conditions is appropriate for assuring ongoing compliance. The rule allows for the source owner or operator to install and operate continuous emissions monitoring systems in lieu of some testing and parametric monitoring. This process

> continuous monitoring of operational and parametric control measure conditions is appropriate for assuring ongoing compliance. The rule allows a source owner or operator to install and operate CEMS in lieu of some testing and parametric monitoring requirements. This process requires source owners to propose site-specific monitoring plans for approval. These plans would include CEMS PS and periodic QA/QC steps to assure the quality of the alternative monitoring data. Currently, EPA has the requisite CEMS PS for Hg monitoring systems and not for multiple metals CEMS.

(76 FR 15,736, March 21, 2011)

John Cooper (the developer of the Xact technology) submitted extensive comments supporting the use of the Xact multi-metals CEMS. EPA's responses to comments document is EPA-HQ-OAR-0119-2494. EPA's responses to Mr. Cooper's comments with page numbers are below.

> [EPA] Response 5 [page 1074]. At this time, EPA does not have promulgated performance specifications for multimetal CEMS and thus the final rule does not contemplate a requirement to use such monitoring or address these monitors directly. See preamble Section III.C. for a discussion on the testing and monitoring requirements in the final rule. See also response to EPA-HQ-OAR-2003-0119-1133.2, excerpt 12.
>
> [EPA] Response 12 [page 1072]. We recognize and agree that an integrating multiple metals CEMS operates in a manner fundamentally different than the instrumental metals CEMS for which draft Performance Specification 10 was developed. Since EPA does not have a published performance specification for metals CEMS, instrumental or integrating, the source owner must prepare a site-specific monitoring plan in order to apply the metals CEMS option. The monitoring plan need not imitate existing CEMS performance specifications (e.g., sampling frequency) but should be structured to address those characteristic operations of the CEMS relecting (sic) the operating principle and associated QA/QC procedures.

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While the statement at the beginning of this section is an accurate quote from the proposed rule, that proposed rule did not document that this statement is correct. In fact, in the final rule, EPA declined to require multi-metals CEMS in spite of extensive comments submitted by the developer of the Xact system. The rationale the EPA provided was that the Agency had not promulgated a performance standard. It should be pointed out that OTM 16 and OTM 20 already existed at the time EPA made the decision not to require multi-metal CEMS as a requirement in the CISWI rule. Since the Agency did not recognize OTM 16 and OTM 20 as valid performance specifications when they responded to Mr. Cooper's comments on the CISWI Rule, they cannot now use them in Veolia's circumstance.

d. "In addition, performance specifications and quality assurance (QA) procedures are now available for both mercury and multi-metals CEMS.[24] EPA has published performance specifications and QA procedures for multi-metal CEMS as OTM 16 (Specifications and Test Procedures for X-ray Fluorescence Based Multi-Metals Continuous Emission Monitoring Systems at Stationary Sources) and OTM 20 (Quality Assurance Requirements for X-Ray-Fluorescence Based Multi-Metals Continuous Emission Monitoring Systems at Stationary Sources).[25] Moreover, multi-metals CEMS are an accepted option for metals emission compliance in the recently promulgated mercury and air toxics (MATS) rule. 77 Fed. Reg. 9303 (February 16, 2012). Therefore, the multi-metals CEMS has been proven to be reliable for measuring actual emissions of HAP metals from a hazardous waste combustor such as Veolia." (Statement of Basis at 23)

Further, Footnotes 24 and 25 of the Statement of Basis state:

Footnote 24.Performance Specification 10 (for multi-metals CEMS) and Performance Specification 12 for mercury CEMS were proposed in 1996 in conjunction with the original HWC MACT. However, because the multi-metals and mercury CEMS measurement technologies had not been fully developed and demonstrated, neither performance specification was promulgated. Between 2003 and 2005, Performance Specification 12A for mercury CEMS was proposed and promulgated in conjunction with the Clean Air Mercury Rule (CAMR) after extensive demonstration of mercury CEMS and identification of appropriate performance parameters. In 2007, CAMR was vacated by the U.S. Court of Appeals for the District of Columbia, which called into question the legality of using Performance Specification 12A. It

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has since been re-proposed in conjunction with amendments to the Portland Cement NESHAP. *See* http://www.epa.gov/ttn/emc/monitor.html#metals

Footnote 25.See http://www.epa.gov/ttn/emc/prelim/otm16.pdf and http://www.epa.gov/ttn/emc/prelim/otm20.pdf.

OTM 16 and 20 are not promulgated performance specifications. When CRWI suggested EPA use published OTMs for HCl monitors in the Portland Cement MACT reconsideration rule, the Agency declined to use these specifications giving the following reasons (EPA-HQ-OAR-2011-0817-0846, page 78):

> Other Test Methods (OTM 22 and 23) were provided on our website for evaluation and/or use by the stakeholder community and to encourage development of field test data supporting the procedures described in these methods. Significant improvements and additions to these OTM procedures are necessary before they will meet EPA's HCl CEMS performance specification requirements. EPA's efforts to prepare and distribute a technology neutral Performance Specification embraces the key components of OTM 22 and 23. If a facility manager believes that there is an alternative procedure that can better meet the HCl compliance monitoring requirements in this rule, they always have the option to submit it as an alternative test method under 63.7(f) as previously mentioned.

In at least two rulemakings, EPA Headquarters has declined to use OTM during the rulemaking or declined to require CEMS because there was no promulgated performance specification for that instrument. In addition, Region 5 states in the Statement of Basis (page 21) that "the HWC MACT does not mandate the use of CEMS to document compliance with the HWC MACT limits for mercury, LVM, SVM, or chlorine based in part on EPA's determination that performance specifications for mercury or multi-metals CEMS were not yet available at the time of finalization of that rule." We believe that it is disingenuous at best for Region 5 to say that performance specifications and quality assurance procedures are now available for multi-metal CEMS. If a facility had asked to put such a CEMS on, the Agency would require them to submit an alternative monitoring application and the process of approving that application would have taken several years.

e. EPA set forth in its Statement of Basis (at footnote 33) that:

> "The U.S. Army has also successfully installed and evaluated a multi-metals CEMS on one of its hazardous waste incinerators. Hay *et al*. (2005). EPA also understands that the U.S. Department of Defense has purchased three Xact™ units for use at army munitions incinerators. Finally, multi-metals CEMS are an accepted option for metals emission compliance in the utility mercury and air toxics (MATS) rule that was recently promulgated by EPA."

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A hypertext search of the MATS rule did not show any reference to a multi-metals CEMS. Thus, the statement that a multi-metals CEMS is an acceptable option in the MATS rule is not correct.

While it is correct that the Army purchased and installed three Xact units, none have ever used for compliance with Subpart EEE. CRWI asked Army personnel the current status of the multi-metals CEMS at their facilities. Their responses are below.

> Tooele Army Depot research and development furnace: This unit only operates from time to time to establish new "recipes" for new feed items. It's actually not covered by any of the site permits, as long as it stays under a certain number of hours of operation. We've never tested it for HWC MACT and it isn't included in the NOC. I would not consider this a realistic example of multi-metal CEMS operating on a daily basis.
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> Tooele Army Depot production furnace: This unit was operational on the furnace for a period of time. They no longer operate the CEMS on the unit. I think once they finished up the prove-out for Cooper, it was shut down.
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> Crane Army Ammunition Activity production furnace: It was installed, has been started up for an initial qualification, then shut down, and has never been used.

CRWI encourages Region 5 to contact these facilities to verify that these statements are correct.

f. "Yanca *et al.* evaluated both the Xact™ and the QAG using a modified EPA Method 301 at a hazardous waste combustor by comparing measured and reference aerosol concentrations. The authors found that both the Xact™ and the QAG met the Method 301 validation criteria with precisions and accuracies on the order of 5 percent over a wide range of concentrations." (Statement of Basis at 24).

   This statement is accurate for the operating conditions and the flue gas conditions at the Evoniks hazardous waste combustor. However, this has not been verified at any other facility.

g. "In 2010-2011, EMC deployed the Xact™ 625 fence line multi-metals monitor at two sites in Ohio in coordination with EPA Region 5, EPA Office of Research and Development (ORD) and Ohio EPA. The Xact™ 625 reports hourly ambient air metals concentrations in near real-time, which allows for faster data acquisition and decision making over conventional filter-based monitoring methods. EPA's Ohio studies show excellent comparability between the Xact™ 625 and conventional, filter-based, metals monitoring methods." (Statement of Basis at 25).

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This is not a valid comparison. Ambient air monitoring is relatively simple due to the ambient air matrix. Flue gas sampling at high temperature and moisture content is a totally different problem. It is much more difficult to get a consistent flue gas sample to the instrument. Thus, any comparison of sampling the flue gas of a hazardous waste combustor to ambient air monitoring ignores too many variables to be valid.

h. "The use of a multi-metals CEMS is the only sure way to verify that Veolia's feedstream analysis procedures and the proposed feedrate limits are sufficient to assure continuous compliance with the HWC MACT limits." (Statement of Basis at 25).

   As already discussed, due to the lack of performance specifications for multi-metals CEMS, there is no way of determining whether data from the CEMS is accurate. Therefore, this statement is inaccurate.

The vast majority of the statements Region 5 has placed in the Statement of Basis are not supported by anything in the official record or in the public record. The facts are that an Xact unit was intermittently operated on one hazardous waste combustor for a number of years. Due to frequent maintenance issues and equipment failure, the facility removed the CEMS from service permanently in 2011. While an Xact unit was installed on three other facilities, it was never used on those three units to comply with Subpart EEE.

<u>A CEMS cannot be used for compliance unless it has a promulgated performance specification or unless the facility submits and the Agency approves an alternative monitoring application.</u>

EPA has not promulgated a performance specification for a multi-metals CEMS. Without a performance specification, the Agency cannot use this instrument for compliance unless they approve an alternative monitoring application. It should be noted that the facility has not submitted an application. In addition, the courts (*Portland Cement Association v. Ruckelshaus*, 480 F.2d 375, 396 (D.C. Cir. 1973), *cert. denied*, 417 U.S. 921 (1974)) have made it clear that compliance can only be shown using the same methods used to develop the standards. Since Method 29 was used to develop the data used to set the standards in Subpart EEE, Method 29 is the only way a facility can show compliance unless the Agency approves an alternative monitoring application.

<u>OTM 16 and 20 are site-specific methods and are not applicable to Veolia's operations.</u>

OTM 16 and 20 were written specifically for Eli Lilly and Co.'s (Lilly) source and instrument. While they would provide a starting place for another facility to develop

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their own site-specific method, one cannot assume that either could be used at another facility without significant modification. For example, the sample transport system in OTM 16 provides for a protocol for including the sample transport system into the instrument validation using either dynamic spiking of known gases or comparison to another method (instrumental or reference, M29, filters/tubes and Ohio Luminex, etc.). This was written specifically for the Lilly system using a Sigrist sampling system. It is not at all clear that an appropriate sample transport system could be designed and developed for Veolia's stack gas conditions. Lilly spent considerable time and resources in developing both the laboratory and stack data underlying these methods. It is also not clear whether this instrument would tie into Veolia's daily operations, alarms, and QA/QC procedures. It is likely that these two OTMs would need extensive work before they would be usable for the conditions in Veolia's stack.

In addition, there is a good chance that the current QAG will not be able to produce quantitative mass of metals in the ranges required to calibrate/test the Xact. The QAG operates as a dynamic spiking into the probe/sample loop of the Xact system. Operation of this unit is dependent on the type of probe used, the flow in the sample loop, and gas conditions. Lilly spent a year developing this device to present the mass of metals specific to its sample loop (flow/moisture, etc.).

In summary, a Title V permit is not the appropriate place to add entirely new and unproven monitoring requirements to a EEE source. The Agency has made a number of statements that are unsubstantiated, incorrect, or misleading in an effort to show that multi-metals CEMS are off-the-shelf instruments that can simply be purchased and easily placed on a stack. These instruments are expensive, custom built, require a great amount of resources to install, calibrate, maintain, and operate, and ultimately after spending considerable amounts of money, may fail to provide the data expected. Installing and operating a multi-metals CEMS would take several years to accomplish. It would take several more years to gather data and to determine whether that data is an accurate representation of what is emitted from the stack. EPA has not promulgated a performance standard for multi-metals CEMS and until they do so, these instruments cannot be used for compliance purposes without an approved alternative monitoring application. CRWI does not see how Region 5 can justify the expenditure of resources for a "research project" when it has been established that other methods – namely those required in the existing EEE regulations – should be used to show compliance.

4. Region 5 should modify the sampling and analysis requirements.

   CRWI has safety and public health concerns regarding this requirement that waste be sampled within 24 hours of receipt. Waste arrives at facilities at all hours and in all conditions. It is not always feasible to accept and safely analyze waste within 24 hours of receipt. If this requirement were imposed, facilities could be forced to choose between accepting the waste and risk violating their permit by not sampling

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the waste within 24 hours, or refusing the waste and forcing carriers with loads of hazardous waste to wait in areas that are far less safe than inside the gates of the facility. We believe that the timetable for sampling waste and any supplemental analysis requirements are more appropriately handled under RCRA and the facility's Part B permit. Further, CRWI is concerned that EPA is requiring analysis simply for the sake of doing analysis. As written, the draft permit requires the analysis of waste that has little or no chance of containing metals.

CRWI finds it highly ironic that Region 5 is requiring the facility to report non-detects at the reporting limit. CRWI has been trying (unsuccessfully) for many years to get the Agency to recognize that the reporting limit is the only defensible number that can be used. However, since the Agency rejected this idea when finalizing Subpart EEE, Region 5 cannot now change the rule and require that all non-detects be reported at the reporting limit. We agree with Region 5 that the reporting limit is the only defensible number but the Agency has to be consistent. Whatever method was used to set the standards has to be the one that is used to show compliance. Thus, Region 5 cannot require non-detects to be reported at the reporting limit. This would inflate the values and potentially create compliance issues where none actually exist. Further, it places the facility in the untenable position of certifying the accuracy of EPCRA (Emergency Planning and Community Right-to-Know Act) reports.

Finally, we would note that EPA Headquarters is currently taking comments on a revised waste analysis plan guidance document. We believe that it is premature to include any changes in waste analysis plans until EPA finalizes that document. CRWI suggests that these provisions be removed.

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