



**ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

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In re:)	
)	
Veolia ES Technical Solutions, LLC)	CAA Appeal No. 19-02
)	
Permit No. V-IL-1716300103-2014-10)	
)	
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**ORDER TO SHOW CAUSE
WHY PETITION SHOULD NOT BE DISMISSED
FOR FAILURE TO COMPLY WITH 40 C.F.R. § 71.11(l)**

Ms. RoseMary Howard filed with the Environmental Appeals Board (“Board”) a petition challenging a federal operating permit issued by Region 5 of the U.S. Environmental Protection Agency (“Region 5”) to Veolia ES Technical Solutions, LLC (“Veolia”) under subchapter V of the Clean Air Act, 42 U.S.C. §§ 7661-7661f, and part 71 of title 40 of the Code of Federal Regulations. The permit addresses air emissions from Veolia’s hazardous waste incinerator in Sauget, Illinois. In her petition, Ms. Howard states that she has an asthmatic respiratory condition that has been aggravated by the “negligence” of “your company.” RoseMary Howard Petition (July 17, 2019). She further explains that she is considering taking “Legal Action against your company and all others involved in this matter” to seek compensation for her injuries. *Id.*

Under 40 C.F.R. § 71.11(l), the Board is authorized to review challenges to federal operating permits issued under part 71. Petitioners may seek review of “any condition of the

permit decision,” and must show that the permit “condition in question” is based on a clearly erroneous finding of fact or conclusion of law or a decision by the permit issuer that otherwise warrants review. 40 C.F.R. § 71.11(l)(1). Generally, petitions may only be filed by a person or entity that filed comments on the draft permit or who participated in the public hearing on the draft permit. *Id.* Further, the petitioner must include in its petition “a statement of the reasons supporting * * * review, including a demonstration that any issues raised were raised during the public comment period (including any public hearing) to the extent required by these regulations.”¹ *Id.*

On its face, Ms. Howard’s petition does not appear to show that she is challenging “any condition of the permit decision,”² that she commented on the draft permit during the public comment period, and that the concern she raises in her petition as to “negligence” was raised during the public comment period. Accordingly, the Board orders Ms. Howard to file a response to this Order with the Board explaining why her petition should not be dismissed for failure to

¹ Section 71.11(g) specifies that persons who believe any draft permit condition is inappropriate “must raise all reasonably ascertainable issues and submit all reasonably ascertainable arguments supporting their position by the close of the public comment period (including any public hearing).” 40 C.F.R. § 71.11(g). Despite this obligation to raise issues and arguments during the public comment period, a person may petition for review by the Board concerning issues if it was “impracticable” to raise the issues during the public comment period or issues arose after the public comment period. *Id.* § 71.11(l)(1).


² Ms. Howard’s petition refers to unexplained negligence that has allegedly caused medical injury and not to any condition of the permit that she alleges is clearly erroneous.

comply with the requirements of 40 C.F.R. § 71.11(l). Ms. Howard must file this response by **Tuesday, August 13, 2019**. EPA Region 5 may, if it so chooses, file a reply to Ms. Howard's response. Any such reply must be filed by **Monday, August 26, 2019**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: July 31, 2019

By:  _____
Aaron P. Avila
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER TO SHOW CAUSE WHY PETITION SHOULD NOT BE DISMISSED FOR FAILURE TO COMPLY WITH 40 C.F.R. § 71.11(I)** in the matter of Veolia ES Technical Solutions, LLC, CAA Appeal No. 19-01, were sent to the following persons in the manner indicated.

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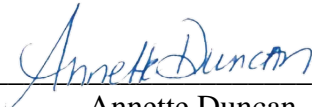
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Dated: July 31, 2019



Annette Duncan
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