

State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
101 S. Webster Street
Box 7921
Madison WI 53707-7921

Scott Walker, Governor
Cathy Stepp, Secretary
Telephone 608-266-2621
FAX 608-267-3579
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March 26, 2014

Ms. Tinka Hyde, Director, Water Division
U.S. EPA, Region 5
77 W. Jackson
Chicago, IL 60604

Subject: Certification Statement for Approval of a Variance to Water Quality Standards
Valero Renewable Fuels Company, LLC; WPDES Permit WI-0002038-08-0

Dear Ms. Hyde:

The Wisconsin Department of Natural Resources has made a final decision under Wis. Stat. s. 283.15 (4) to approve a variance to the water quality standard for mercury at the above-named facility. This decision is subject to judicial review pursuant to Wis. Stat. ss. 283.15(4)(d) and 227.52. Although the Department has issued a final decision on the mercury variance, including the permit terms and conditions of the variance, the Department recognizes that the mercury variance and related permit conditions may not be included in the final reissued WPDES permit until EPA has approved the variance.

Pursuant to §§ 40 CFR Part 131.21 and 131.6, the Department must submit a certification statement to EPA for each variance approved in the state. The statement must certify that the variance to a water quality standard was approved in accordance with state law.

Accordingly, I hereby certify that the mercury variance was reviewed and approved by Department staff in accordance with procedures in subchapter III of chapter NR 106, Wis. Adm. Code. The application for this variance was submitted on February 6, 2014 and the department public noticed its intent to reissue the permit and grant the mercury variance on February 19, 2014 in accordance with Wis. Stat. §§ 283.15(3) and 283.39.

If you have any questions regarding the variance approval, please contact Barton T. Chapman, P.E. at (608) 266-3906.

Sincerely,

Timothy A. Andryk
Chief Legal Counsel

DATED IN MADISON: 3-26-14

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March 26, 2014

Ms. Tinka Hyde, Director, Water Division
U.S. EPA, Region 5
77 W. Jackson
Chicago, IL 60604

Subject: Request for Approval of a Variance from Water Quality Standards for Mercury
Receiving Stream: Rock River in Jefferson County
Permittee: Valero Renewable Fuels Company, LLC
WPDES Permit No. WI-0002038-08-0

Dear Ms. Hyde:

In accordance with § 283.15 of the Wisconsin Statutes and Title 40, Part 131 of the Code of Federal Regulations, the Department requests U.S. EPA, Region 5 to approve a water quality standards variance for the above-referenced discharge. The water quality criterion for which the permittee is seeking a variance is contained in chapter NR 105, Wisconsin Administrative Code.

To assist your staff during their review, relevant background information pertaining to this variance is attached to this letter. The draft permit and variance were publicly noticed on February 19, 2014. The comment period has now ended. No comments were received on the draft permit relating to the proposed variance.

We are committed to working with the permittee during the term of this variance to find a solution that will lead toward full compliance with the applicable water quality standard. Conditions on the variance, which are included in the WPDES permit, specify actions to be taken by the permittee and timetables for those actions. If the variance is approved by EPA, the Department will include the variance limitation and related conditions in the final WPDES permit.

We appreciate your consideration of this request. Should you have further questions regarding this matter, please contact Barton T. Chapman, P.E. (608) 266-3906.

Sincerely,

Kenneth G. Johnson, Administrator
Water Division

DATED: 3/26/2014

Attachment

e-cc Susan Sylvester - WY/3
David Pfeifer - EPA, Region 5
Diane Figiel - WY/3

Song Tran - SER / Milwaukee
Brian Weigel, Water Evaluation - WY/3
Robin Nyffeler - LS/8

BACKGROUND INFORMATION REGARDING WATER QUALITY STANDARDS VARIANCE

Receiving Stream and Classification: Rock River, Jefferson County, Warmwater Sport Fish Community
Water Quality Based Effluent Limit: 1.3 ng/L as a monthly average

Existing Permit Limit: no limit

Permit Limit Based on Proposed Variance: 87.5 ng/L as a daily maximum

Duration of Variance: From the date of permit reissuance through the proposed permit expiration date of March 31, 2019 the limit of 87.5 ng/L would be in effect as a variance limit.

Department Rationale for Approving Variance:

S. NR 106.145, Wis. Adm. Code, outlines findings that justify expediting variances mercury. The Department intended that this provision be generally applicable to municipal and industrial dischargers, which produce large volumes of effluent with already extremely low mercury concentrations. More specifically:

- a) The Department considers treating these large volumes to produce effluent that reliably meets the water quality-based effluent limit to be prohibitively expensive. See Section VII of the Facility Specific Standard Variance Data Sheet for clarification.
- b) At the time of promulgation of s. NR 106.145 in October 2002, data on mercury concentrations in wastewater effluents were generally not available. However, after the promulgation of EPA Method 1631, and beginning in 2009, the permittee began generating low-level mercury data on samples of its effluent, showing that although the facility is properly operated and maintained, the WQBELs are not being consistently achieved.
- c) Appropriate mercury source reduction activities are environmentally preferable to wastewater treatment technology in many cases because wastewater treatment for mercury produces a sludge or other resultant wastewater stream that can be as much or more of an environmental liability than the untreated effluent.

The Department concludes that the applicant has met the requirements of Subchapter VII of ch. NR 106, Wis. Adm. Code, and s. 283.15, Wis. Stats. The Department further concludes that requiring the applicant to meet the water quality standard for mercury at this time would result in substantial and widespread adverse social and economic impacts. The Department therefore proposes to grant the variance for mercury.

Conditions to be included in WPDES Permit: See Attached Draft Permit being sent to EPA in Electronic Format

Attachments:

Facility Specific Standard Variance Data Sheet
Certification from DNR Chief Legal Council