



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

(AR-18J)

MAR 21 2008

Matthew Stuckey
Indiana Department of Environmental Management
Office of Air Quality
100 North Senate Avenue
MC 61-53, Room 1003
Indianapolis, Indiana 46204-2251

Dear Mr. Stuckey:

The U.S. Environmental Protection Agency has completed its review of the draft minor construction permit, number 089-25484-00453, and the draft Title V operating permit modification, permit number 089-25488-00453, for BP Products North America Inc. - Whiting Business Unit in Lake County, Indiana. The Indiana Department of Environmental Management (IDEM) issued these draft permits for public comment on February 11, 2008. I am pleased to note that EPA and IDEM staff have worked closely over the last several months to resolve various issues.

Below are EPA's comments on the draft permits. We expect IDEM to address these comments as you finalize the minor source construction permit and prepare the proposed Title V operating permit for EPA review reflecting public comments received:

1. The netting analysis which supports the decision to permit the proposed construction for the Operation Canadian Crude (OCC) project as a minor modification is based upon emissions increases and decreases that occur during the contemporaneous period. The draft minor construction permit does not clearly identify when the OCC project will be complete; therefore, the extent of the contemporaneous period is not clear. The final construction permit should clearly identify when the OCC project is complete. This can be accomplished by identifying in the permit a specific construction event that will conclude the project.
2. The draft permits contain particulate matter limits based on finally adopted state regulations which IDEM submitted to EPA on February 21, 2008, for inclusion into its State Implementation Plan (SIP). While EPA finds these revisions acceptable and proposed on March 14, 2008, to approve them as part of the SIP, the effective date of this federal action will be 30 days after publication of our final notice. Therefore, any final permit that IDEM issues before the SIP revision action is effective must contain both limits, reflecting the existing SIP as well as the new proposed SIP. IDEM should note in

the permit that the existing limits will apply only until such time as the new limits are effective as part of the final, federally approved SIP.

3. The draft permits contain requirements for units that have converted or will convert from the use of fuel oil to cleaner fuel such as natural or refinery gas (for example, the #11A and 11C Pipe Still process heaters). The particulate matter emission limits listed for these sources should reflect the conversion to the cleaner fuel. The permit should incorporate a ban on burning fuel oil and/or specify that the lower emission limit applies, and this should be made effective upon the conversion, rather than the end of the OCC project.
4. IDEM has incorporated into the draft operating permit entire New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPs) subparts that may contain requirements applicable to various units within the facility. This approach does not make clear what requirements apply to individual emission units at the source. IDEM should provide tables in the permit that specify the applicable sections and subsections of the NSPS and NESHAPs for each affected emission unit at the facility.
5. Some of the specific unit name descriptions provided in the draft permits vary from the unit names used in regulations included in the current SIP as well as the recently submitted SIP revision. For clarity, IDEM should cross-reference the SIP and permit unit descriptions where the two differ.
6. On January 25, 2007, and November 29, 2007, EPA issued separate Notices of Violation (NOVs) to BP. In some instances, the violations alleged in EPA's NOVs also constitute alleged violations of the Consent Decree between the United States, et al., and BP entered on August 29, 2001. Because BP is allegedly not in compliance with all applicable Clean Air Act requirements, IDEM cannot issue a Title V permit to BP that serves as a shield to the alleged violations. IDEM must include language appropriately limiting the application of the permit shield set out in 42 U.S.C. Section 7661(c)(f) and 40 CFR Part 70.6.

EPA will continue to seek resolution of all violations. Our review of BP's draft permit and any enforcement actions are necessarily separate matters, and EPA may take actions as appropriate.

EPA expects that IDEM will address these issues in any final construction permit issued and in the proposed Title V operating permit as appropriate. The Agency will review the final construction permit, as well as the proposed Title V operating permit to ensure that these and other comments have been adequately addressed.

We look forward to continuing to work with you and to review the proposed Title V operating permit in the near future. EPA is committed to ensuring that the permits issued by IDEM meet all applicable Clean Air Act requirements. If you have any further questions, please feel free to contact me or have your staff contact Sam Portanova at 312-886-3189 or Constantine Blathras at (312) 886-0671.

Sincerely yours,

A handwritten signature in cursive script that reads "Pamela Blakley". The signature is written in black ink and is positioned above the typed name and title.

Pamela Blakley, Chief
Air Permits Section