

9/29/06

R-19J

CERTIFIED MAIL

RETURN RECEIPT REQUESTED

Dennis J. Warchol  
Onyx Environmental Services  
7 Mobile Avenue  
Sauget, Illinois 62201

SUBJECT: Application for Federal Clean Air Act Title V Operating Permit For Onyx Environmental Services

Dear Mr. Warchol:

I am writing to inform Onyx Environmental Services (“Onyx”) of the requirement to submit an application for a Clean Air Act Title V federal operating permit for the Onyx facility located at 7 Mobile Avenue in Sauget, Illinois. As more fully discussed below, the Illinois Environmental Protection Agency (“IEPA”) has failed to submit a permit revised to meet a February 1, 2006 order by the Administrator of U.S. Environmental Protection Agency (“EPA”) objecting to the IEPA’s proposed Title V permit for the Onyx facility. Pursuant to Section 505(c) of the Clean Air Act (“the Act”), 42 U.S.C. §7661d(c), and the regulations promulgated thereunder at 40 C.F.R. Parts 70 and 71, EPA is initiating the process to issue or deny a Title V permit for the Onyx facility. So that we may proceed to carry out our responsibilities, we request that Onyx submit to EPA a Title V permit application for the facility in accordance with the federal operating permits program set forth at 40 C.F.R. Part 71.

EPA's final approval of Illinois' Title V program became effective on November 30, 2001 (see 66 Fed. Reg. 62946 (Dec. 4, 2001)). While IEPA has primary responsibility for issuing Title V permits for sources under its jurisdiction, EPA retains final authority under the Act and Part 70 to determine whether State-issued permits comply with all statutory and regulatory requirements. Section 505(c) of the Act and 40 C.F.R. § 70.8, generally provide that, if EPA has objected to a proposed permit and IEPA has not proposed a corrected permit within 90 days following the EPA objection, then, pursuant to section 505(c) of the Act and 40 C.F.R. § 71.4, EPA will issue or deny a federal operating permit using the procedures of Part 71.

EPA objected to the IEPA's permit for the Onyx facility in an order of the Administrator signed on February 1, 2006 (Enclosure). As discussed in that order, EPA objected to the permit because IEPA did not: respond to significant comments concerning the possible need for a compliance schedule and the potential applicability of NSR requirements in the proposed permit; require Onyx to submit a current compliance certification; require Onyx to submit an updated application that reflects all applicable requirements for the source; make clear either in the permit or statement of basis what constitutes "normal" operating conditions for purposes of a performance test; limit Onyx's elections to regulatory requirements applicable to hazardous waste incinerators; define the terms, "container" and "containerized solids," or explain in the statement of basis where the terms are defined, and provide information on where certain applicable specifications can be located; provide a statement of basis that complies with federal and state regulations; and explain how a thirty day reporting requirement for all deviations is prompt (or require a shorter reporting period).

The 90-day period for IEPA to resolve EPA's objection has expired. Therefore, EPA is notifying you that we intend to issue a federal operating permit to Onyx pursuant to the provisions of Part 71. The application and accompanying instructions which you should use to apply to EPA for a Title V permit under Part 71 can be found at <http://www.epa.gov/air/oaqps/permits/p71forms.html>. The deadline for Onyx to submit the information listed in these forms is 12 months from the date of this letter. We are available to discuss any alternative format that you wish to use to submit the required information. We also recommend that you consult with us to ensure that a complete application is submitted by this date to ensure that Onyx obtains its Part 71 Title V application shield. If you wish to make a business confidentiality claim under 40 C.F.R. Part 2, Subpart B for any information submitted with your application, you must submit that claim with your application. EPA's notice of final rulemaking at 61 Fed. Reg. 34202 (July 1, 1996) contains a detailed discussion of the Part 71 program, including permit application procedures and permit fee requirements. Pursuant to 40 C.F.R. § 71.11(d), after receiving your complete application, we will provide Onyx and the public with our draft decision on issuance or denial of a Title V permit. This will be followed by a 30-day review and comment period before we make our final decision. Your facility will be required to submit initial Part 71 fees, as required at 40 C.F.R. § 71.9(g), within three months after the issuance of its Part 71 permit.

Even though this letter marks the beginning of the process to issue or deny a Part 71 permit for Onyx, IEPA may reacquire Part 70 permitting authority for Onyx by submitting to EPA a Part 70 permit for Onyx that fully resolves the February 1, 2006

objection.<sup>1</sup> If IEPA resolves EPA's objections, EPA will take steps to stop the part 71 permit process (or rescind the Part 71 permit if one has been issued).

This letter does not represent final Agency action to issue or deny a permit to Onyx under Title V of the Act, or any other kind of final agency action under section 307(b) of the Act, 42 U.S.C. § 7607(b). We are available to further explain the Part 71 permit application requirements or to answer any questions that you have regarding the Part 71 permit issuance process. If you have any questions, please do not hesitate to call Genevieve Damico, Acting Section Chief, Air Permits Section, at (312) 353-4761.

Sincerely yours,

/s/

Cheryl L. Newton, Acting Director  
Air and Radiation Division

Enclosure

cc: Laurel Kroack, Chief  
Bureau of Air, Illinois Environmental Protection Agency

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<sup>1</sup> The February 1, 2006 order was amended by an order signed August 9, 2006 to add an additional basis for objection. EPA will treat the monitoring issue identified in the August 9 order as having a separate 90-day time period for response.