

March 9, 2001

Bharat Mathur, Director, Air and Radiation Division,
USEPA Region V (5A-18J)
77 W. Jackson Boulevard
Chicago, Illinois 60604

Dear Mr. Mathur,

Following is a Petition Requesting a Finding of Deficiency for the Ohio Environmental Protection Agency's Title V program in response to the Federal Register "Notice of Comment Period on Program Deficiencies" on December 11, 2000.

The comments below reflect a number of problems with Ohio's Title V program that were identified as a result of commenting on a Title V permit for Cleveland Electric Illuminating Co.'s Lakeshore 18 Plant. Our goal in submitting these comments is to improve the Title V program for our state, promote Environmental Justice for our community, and to make public participation more accessible and meaningful. Although we have submitted comments as a group in another petition, we want to make these additional comments to reinforce our interests.

Thank you for your response to our concerns.

Sincerely,

Chris Trepal

1. Ohio EPA is clearly failing to meet the Clean Air Act deadline for issuing Title V permits. According to USEPA's web site, Ohio has issued 27% of the 751 applications received. (JAN 2001)
2. Ohio EPA has failed to respond to comments on a draft Title V permit. We began interest in a Title V permit in March 1999, participated in a July 6, 1999 public hearing and, to date, have not had a response to our comments. (Copies of our letters are enclosed.) We are concerned because we do not know if Ohio EPA has forwarded the proposed permit to USEPA. This does not give us the opportunity to petition USEPA to object.
3. Ohio EPA seems to be holding up Title V permits. Although we have questioned the permitting process timeline, we have had no response to our concerns from Ohio EPA. At a January 31, 2001 meeting, Ohio EPA Director, Chris Jones, stated that Ohio was holding up all utility Title V permits until a lawsuit was settled. That means for the past 18 months or more, and for an undetermined time in the future our concerns will be unmet and our comments on the permit will be unanswered. We are concerned that Ohio's policy of holding up Title V permits for what may be some of the biggest polluters in Ohio will result in negative health effects for some of our most sensitive populations. We also question if Ohio is holding up the permits for other major polluters in the state.
4. USEPA has criticized Ohio EPA on their Title V program and policies. Letters on Region V's web site identify potential deficiencies in Ohio's program including: Statement of Basis (November, 1997), Annual Certification (April, 1998), Credible Evidence (March, 1998) Best Available Technology (June, 1999 and October, 1999), changing or eliminating PTI provisions (May, 1998 and March, 1999), Continuous Opacity Monitors for Utilities (September, 2000) with many of the comments reflecting concern for their federal enforceability.

We requested a New Source Review as part of our Title V comments for the Lakeshore 18 permit. Due to all the criticism of Ohio's program we have little confidence that they will address our legitimate concern and request. We question if Ohio is including New Source Review in their Title V permits.

5. Public Participation Issues:

HEARINGS:

OEPA has not been effective in public outreach including the actual notice. No time is given for the public hearing - only time for the public information session.

It costs \$70 to subscribe to the OEPA publication of the hearing schedules. No one should be expected to access it to get current information. Although we do get emailed Title V information, we cannot access the file from our computer due to a lack of compatibility. Since many low income and minority communities use library, school or community center computer services this is a big problem for EJ communities. This also begs the questions of the digital divide for those communities who do not have computer access at all.

Title V hearings are often held too close together to allow community participations. For Example, two major Title V hearings were held two days apart for the same community (Lake Shore Plant on July 6 and Day Glo on July 8, 1999). It is impossible for one community to fully participate with this timeline. This type of schedule decreases attendance and community participation at one or both of these hearings.

DOCUMENTS:

Copies of documents are rarely provided free of charge to individuals or grassroots groups with limited funds. The city of Cleveland used to charge \$1 per copy and now charges \$.25 per copy. This is a tremendous burden for neighborhood and community groups and members of environmental justice communities.

Requests to examine Cleveland Bureau of Air Pollution Control (BAPC) documents take too long. All requests for air pollution documents must be submitted to Cleveland's Law Department via a public records request.

Some documents may be poorly kept or even be non-existent, causing great difficulty. If documents are missing or non-existent, it is not clear what recourse the public has. The attitude, for example, at the Cleveland BAPC, is that is just the way it is. No apologies, no further help. Public participation in the Title V program has been severely limited by these conditions at BAPC.

Ohio EPA has recently severely criticized the BAPC. It is difficult to know with any certainty if existing permits, monitoring and other documents upon which the Title V permit are built are adequate. Some of the OEPA criticisms include: "air pollution permits the city issued that have been so poorly written that their enforcement ability is suspect; a failure to document properly violations they found making it difficult to build enforcement cases against polluters; and air-pollution employees who were unfamiliar with basic air pollution concepts, rules and laws."

Local agency staff may not be helpful and may be antagonistic (usually due to overwork, lack of tools to deal with the public, etc.). For example, facility engineers are usually not helpful - sometimes they are unable to answer most questions, and do

not attend the hearings, even though their names are listed on the Title V public notice. EPA likes to send members of the public to the Public Interest Center where the information is helpful but too general for meaningful participation. Public hearing follow-through is not clearly communicated by hearing examiners from the agencies. They do not tell the audience what will happen next, and what the timeline is.

ENVIRONMENTAL JUSTICE:

Agency folks are not familiar with Environmental Justice issues. Sometimes EPA representatives do not know what "EJ" is, and what should be taken under consideration. This should be an integral part of all hearing information.

All too often the low income and communities of color are forced to live with disproportionate amounts of pollution and increased health risks, even while gains are made for others. Efforts by advocates in low-income communities and communities of color to improve environmental quality are being frustrated by the absence of easily accessible local technical support and expertise. Residents of communities facing disproportionate amounts of pollution also face the burdensome task of accessing and deciphering immense amounts of technical and regulatory information. Information is not easily accessible, is costly to assemble and sometimes difficult to interpret and apply to a given local problem. In many instances a high level of knowledge is required just to learn what pollutants may be found in a neighborhood and whether they pose health problems for residents. In low-income communities, the problem is heightened by economic realities that make citizen involvement even more difficult, such as lack of financial resources needed to research pollution permits.

Technical support and assembling/coordinating available expertise on issues such as regulatory processes, public health risks associated with pollutants of concern, Best Available Technology, New Source Review and Prevention of Significant Deterioration (PSD) Requirements, and monitoring, would equal the playing field for these communities and enable them to effectively take part in the environmental decision making process. Support in the form of research assistance, technical review, and independent oversight of the process will provide affected communities with vital information necessary to achieving environmental equity.

We have requested an EJ determination on the Lakeshore case in addition to a New Source review. We requested the EJ determination for stricter increased monitoring, record keeping and reporting.