



March 12, 2001

By Electronic Mail and Regular Mail

Bharat Mathur
United States Environmental Protection Agency
Region 5
Air and Radiation Division
77 W. Jackson Blvd.
Chicago, Ill 60604

Dear Director Mathur:

These comments are submitted on behalf of Valley Watch, Inc. in response to United States Environmental Protection Agency (U.S. EPA) "Notice of Comment Period on Program Deficiencies" published in the Federal Register on December 11, 2000.

Valley Watch, Inc. is an Indiana a not-for-profit corporation whose purpose is "to protect the public health and environment of the lower Ohio River Valley."

Valley Watch has been troubled for some time about the administration of the Title V program in Indiana. As a result, we were one of the first groups to sign up last year for Title V training which was held in Indianapolis. Unfortunately, the training served mainly to reinforce our concerns.

It is important to understand the context of our concern. According to EPA's Continuous Emissions Monitoring data, Indiana ranks from first to third, every year, in the release of SO₂, NO_x and PM. HAPS emissions are even worse. For instance, in the emission of cancer causing chemicals to the air, Indiana ranks second overall but first in per capita and per square mile, emitting over 12,000,000 lbs per year to the air Hoosiers are forced to breathe.

Valley Watch is disturbed that the Indiana Department of Environmental Management ("IDEM") is using Title V permits to make certain major sources "minor" with respect to the Clean Air Act's nonattainment New Source Review ("NSR") and Prevention of Significant Deterioration ("PSD") programs, even though these sources were required to apply for PSD/NSR permits long ago. For example, it appears that the Title V permit issued to Fort Wayne Foundry Corp., Pontiac Street Division

(Permit No. T003-6027-00070) makes the facility “minor” for purposes of PSD, even though it appears that the facility should have applied for a PSD permit back in 1986. It appears that the Hamilton Foundry & Machine Co. is also escaping PSD in this way. This is not an isolated case.

We understand that Indiana recently passed a statute that limits the liability of companies that have violated NSR/PSD requirements. Under that statute and associated IDEM policies, IDEM is generally excusing most facilities that failed to apply for a PSD or NSR permit at the time that they performed a major modification.

Indiana’s policy of excusing NSR and PSD violations is in conflict with U.S. EPA’s “Guidance on the Appropriate Injunctive Relief for Violations of Major New Source Review Requirements” dated September 17, 1998. In that Guidance, U.S. EPA explained that “[w]hen a case involves a source that failed to obtain any type of permit or limit at the time of construction, the source should not be allowed to avoid the installation and operation of pollution control equipment or process changes by obtaining a ‘synthetic’ minor limit (usually a permit) after the fact unless compelling circumstances exist.” Nevertheless, Indiana appears to be giving an after-the-fact synthetic minor permit to any facility upon request.

In addition to the fact that the Title V permit should not be used to make a source like the Fort Wayne Foundry “minor” after it has already violated NSR or PSD, the limits included in the Fort Wayne Foundry permit that are supposedly designed to keep the facility’s emissions below major source levels are ineffective. The monitoring required under the permit to assure compliance is very poor. There is no ongoing monitoring, record keeping, or reporting required to assure that the facility’s furnaces comply with particulate matter (PM) limits. While there is a one-time test required, this test will only measure PM, generally, rather than PM10. Even if the stack test was designed to test PM10, one stack test would not satisfy monitoring requirements under 40 CFR Part 70. The Fort Wayne Foundry permit also allows the facility to rely on AP-42 emission factors to demonstrate compliance with permit limits, even though AP-42 emission factors are only rough estimates of potential emissions and are not designed for measuring a facility’s compliance with applicable emission limits.

Indiana’s failure to include adequate monitoring, record keeping, and reporting requirements in Title V permits undermines the usefulness of the Title V program. More importantly, Indiana’s use of the Title V permitting program to allow facilities to circumvent NSR and PSD calls into question whether the state should be allowed to retain authority to administer the Title V program. Valley Watch urges U.S. EPA to take immediate action to correct these problems.

Sincerely,

John Blair, president