



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 05 2010

REPLY TO THE ATTENTION OF:
R-19J

Rebecca Humphries
Director
Michigan Department of Natural Resources and Environment
525 West Allegan Street
P.O. Box 30260
Lansing, Michigan 48909-7760

Dear Ms. Humphries:

I am writing to request that the Michigan Department of Natural Resources and Environment (MDNRE) submit to the U.S. Environmental Protection Agency for review all changes the State has made to its federally approved Title V Operating Permit Program since our original approval. As you know, Michigan developed its Renewable Operating Permit (ROP) Program pursuant to Title V of the federal Clean Air Act (CAA) and implementing regulations, which contain specific program requirements. Among other things, the regulations at 40 C.F.R. Part 70 require that a state Title V program provide that subject sources pay annual fees sufficient to cover the permit program costs. In order for EPA to evaluate the current status of the State's ROP Program, we are seeking a Title V program submittal that identifies and includes any revisions to the State's authorities and regulations; the submittal must also include any changes to the program's fee schedule and a demonstration of the adequacy of the Title V fees to support the State's successful operation of the required Title V program.

On April 3, 2009, I sent a similar request to Steven Chester, then Director of the Michigan Department of Environmental Quality (MDEQ). Although Michigan has provided certain program revisions since that time, the State had also indicated its intention to pursue Title V fee schedule changes and we had agreed to delay our review until Michigan could provide a complete submittal that might include a revised fee schedule. Region 5 in fact has supported the State's efforts to ensure its Title V program is adequately funded. For example, on October 28, 2009, Cheryl L. Newton, EPA Region 5 Air and Radiation Division Director, at the request of the State, attended a meeting with MDEQ and several members of the Michigan Legislature and various legislative staff to discuss the elements of a Title V program as well as EPA's process for evaluating whether Michigan's fees are adequate. We note, however, that over the last several months, the State has not obtained final legislative action on a revised Title V fee bill, and in fact Michigan has billed ROP sources for the current fiscal year at the existing fee levels. In order to operate within that budget, we understand Michigan has reduced its Title V staff and can no longer commit to meeting its Title V permitting and compliance obligations. We are concerned that the State is not collecting adequate fees to support the required Title V program, as required

by the CAA, based on this existing billing structure. Additionally, on March 17, 2010, James Clift of the Michigan Environmental Council sent Ms. Newton a letter raising concerns with Michigan's Title V fees and the State's stalled fee bill, HB 5220. In consideration of these events, I am requesting that Michigan proceed to submit its Title V program revisions to EPA, including a formal fee sufficiency demonstration based on the current fees, as soon as possible.

Michigan should submit the revised Title V program for EPA review, in accordance with 40 C.F.R. §70.4(i). We appreciate the State may need time to develop its full submittal, and therefore are specifically requesting that within 30 days Michigan submit an expeditious schedule for developing the package and submitting it to EPA.

Please refer to 40 C.F.R. §70.4 for the Title V program submittal requirements. With respect to Title V fees, these requirements include but are not limited to: a fee program description, the applicable State fee legislation, a fee sufficiency demonstration consistent with 40 C.F.R. §70.9, and a statement, with accompanying documentation, that adequate personnel and funding have been made available to develop, administer, and enforce the Title V Operating Permit Program. We look forward to working with your Department as Michigan develops its Title V program submittal. If you have any questions, or if I can be of any assistance, please do not hesitate to contact me.

Sincerely,



Bharat Mathur
Acting Regional Administrator

cc: G. Vinson Hellwig
Chief, Air Quality Division
Michigan Department of Natural Resources and Environment

James Clift, Policy Director
Michigan Environmental Council