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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

REPLY TO THE ATTENTION OF 5RA-14

September 11, 1985

Woodrow A. Myers Jr. M.D.
State Health Commissioner
Indiana State Board of Health
1330 W. Michigan Street
Indianapolis, Indiana 46206

Dear Dr. Myers:

This letter concerns a recent action taken by the Indiana Air Pollution Control Board (IAPCB) in which a construction permit modification was approved for the proposed General Motors truck assembly plant near Fort Wayne. On August 7, 1985, the IAPCB removed a SO₂ control requirement for two coal-fired boilers from the Prevention of Significant Deterioration (PSD) permit issued by the State on November 30, 1984.

My primary concern is that the State of Indiana, which has been delegated authority to implement the PSD program on behalf of the Administrator of the U.S. Environmental Protection Agency (USEPA), is expected to implement the program in accordance with the PSD regulations and guidance. In spite of persistent objections [ILLEGIBLE] that granting the proposed permit modification would be in conflict with the PSD regulations and guidance, the State acquiesced to the GM request and removed the SO₂ control condition.

Let me provide a more detailed description of the events leading to this situation. On September 30, 1980, USEPA's Region V delegated partial authority to the State of Indiana to implement the PSD program statewide. This delegation was amended on January 21, 1982, to grant the State full authority to implement and enforce the PSD program statewide. The delegation means that the State of Indiana has the responsibility to review proposed construction projects for their impact on air quality and for the appropriate emission control technology, in accordance with the Federal PSD regulations. If the proposed project meets the air quality impact limits and the emission control requirements (Best Available Control Technology - BACT), the State would act on behalf of the Administrator of USEPA and issue the permit.

On July 27, 1984, GM requested a permit to construct, among other things, two fluidized bed combustion boilers. Through verbal discussion during the permit review phase and with official comments into the public hearing record on November 20, 1984, USEPA, Region V indicated that the State had failed to perform (or have GM perform) the appropriate analysis to determine BACT. Such an analysis, according to Federal guidance, would require certain energy consumption and control cost data from GM so that a control technology could be selected which represents BACT after considering energy, environmental and economic factors.

Just prior to issuing the permit on November 30, 1984, the Technical Secretary of the IAPCB supplemented the proposed SO2 permit condition of 1.2 lbs SO2/MMBTU by adding a 90 percent SO2 removal requirements. No detailed technical analysis was performed by the State or GM justifying the 90 percent SO2 removal requirement. However, since the requirement appeared to be close to the "state of the art" proposed for or required of other similar units, and was consistent with USEPA's comment that a more stringent level of control could be supported, USEPA did not comment further on the lack of a proper BACT analysis. USEPA's approach here was consistent with the national guidance it had provided in the PSD Workshop Manual of October 1980, at page I-8-7. That guidance indicates that, when a proposed permit contains a control strategy reflecting the highest degree of emission reduction available, an analysis of alternative control strategies is not required. Since Indiana's added requirement of 90 percent SO2 removal appeared to USEPA to be close to "state of the art", USEPA judged that a BACT analysis was not necessary. USEPA maintains this view and, therefore, judges the original permit to be valid.

On January 17, 1985, GM requested that the November 30, 1984, permit be amended to eliminate the 90 percent SO2 removal requirement. A second public hearing was held and USEPA, Region V placed into the record the observation that there was no technical support to demonstrate that elimination of the 90 percent SO2 removal condition would result in BACT.

Finally, on August 7, 1985, Region V staff appeared before the IAPCB and presented a statement dated August 6, 1985, which indicates that, if the IAPCB, without an analysis, ... "removed the 90 percent SO2 control condition without [ILLEGIBLE] that the relaxation in [ILLEGIBLE] BACT than the permit [ILLEGIBLE] a valid PSD permit. Furthermore, oral testimony before the IAPCB indicated that the delegated authority to the State of Indiana did not cover removal of the 90 percent SO2 control limit from the November 30, 1984, permit without the appropriate BACT analysis. As you can readily conclude from the above summarized action, the USEPA considers that the construction which is now taking place near Fort Wayne is only authorized for Federal PSD purposes, by the November 30, 1984, permit and not under the permit amendment, as adopted by the IAPCB on August 7, 1985.

The USEPA must continue to view the 90 percent SO2 removal condition as federally enforceable and applicable to the operation of the two fluidized bed combustion boilers in question.

The State's processing of the GM permit has aroused concern about whether or not the intentions of Congress for preventing significant deterioration of our air resources are best being met by implementing the PSD program at the State level in Indiana. When the Technical Secretary of the IAPCB supports a position contrary to the Federal regulations, and when the IAPCB takes actions that ignore Federal guidance, it is appropriate for me to ask the State to reassess its commitment and ability to implement the PSD program in accordance with the Clean Air Act. Although it is our desire to have a delegated program where the review and permitting can be done at the lowest effective level of government, a delegation should not be made at the sacrifice of Congress' goals for PSD.

If Indiana demonstrates in the future that it is unwilling to follow USEPA's guidance and regulations with respect to the PSD program, I am prepared to amend the delegation agreement to reduce the State's role. Such a reduction would, of course, entail a commensurate reduction in Clean Air Act, Section 105 grant funding.

If you have further questions on the details of this letter, please contact Mr. Steve Rothblatt of my staff. By all means, please let me know the State's position in future implementation of the PSD program, as an agent of the Administrator.

Sincerely yours,

Valdas V. Adamkus
Regional Administrator

cc: Harry Williams, IAPCD

