Title V/Clean Air Act: Louisiana Bucket Brigade Petition to Object to Convent, Louisiana Direct Iron Ore Facility

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Three individuals and the Louisiana Bucket Brigade and Inclusive Louisiana (collectively "LBB") filed a December 12th Petition to Object ("Petition") to a Clean Air Act Title V permit issued by the Louisiana Department of Environmental Quality ("LDEQ") to Nucor Steel Louisiana, LLC ("Nucor").

The Petition addresses what it describes as a Direct Iron Ore ("DRI") facility in Convent, Louisiana.

Title V requires certain stationary sources of air pollution to obtain Operating Permits. States are required to administer Title V through adopted implementation plans. These plans are submitted to and approved by the United States Environmental Protection Agency ("EPA"). The intent of a Title V permit is to organize in a single document all the requirements which apply to the permit holder.

42 U.S.C. §7661 requires that states submit each proposed Title V permit to EPA for review. §505(v)1 of the Clean Air Act requires that EPA object to the issuance of proposed Title V permits in writing within 45 days of receipt of the proposed permit (and all necessary supporting information) if the federal agency determines that it was not in compliance with the applicable requirements of the Clean Air Act. If EPA does not object to a permit, §505(v)2 provides that any person may petition the EPA administrator, within sixty (60) days of the expiration of the 45-day review period to object to the permit.

The Petition describes the Nucor DRI facility as the largest HYL facility in the world. The Facility is stated to have an annual production capacity of 2.5 million tons of direct reduced iron.

The referenced Title V permit is stated to be a renewal. Further, it is stated to involve a significant modification of the prior Title V permit.

LDEQ is stated to have transmitted a proposed permit to EPA on May 5th. The response to public comment is stated to have not resolved all of the concerns raised in Petitioner's and EPA's comments. As a result, EPA is stated to have objected to the proposed permit on certain grounds on June 16th.

The EPA objections included:

1. Failure to justify use of AP-42 emission factors to estimate emissions
2. Failure to justify used of emissions factors purported to be ("guarantees") for venders to estimate emission
3. Failure to justify basis for assumption of control efficiency above 99% for the enclosed conveying systems for material handling

4. Failure to adequately address EPA's comments provided to LDEQ about authorizing uncontrolled emissions during upsets associated with bypassing the Sulphur Ox unit

5. Failure to limit Sulphur content in the natural gas fuel and iron ore and lack of monitoring and record keeping requirements to demonstrate compliance with permit limits

LDEQ is stated to have submitted a response to EPA's objection letter and a revised proposed permit on August 16th. None of the proposed permits for EPA objections are stated to have been posted on EDMS prior to issuance of the final permit. Further, the Petition states that Petitioners were not notified of the permit revisions and issuance.

EPA did not further object to the issuance of the revised proposed permit. Therefore, LBB states that it is timely filing this Petition.

LBB's stated objections include:

- Environmental justice concerns mandate action by EPA to ensure that this Permit's provisions comply with Title V requirements
- LDEQ's response regarding environmental justice concerns failed to demonstrate that EPA could or should ignore these important factors
- LDEQ did not accurately or sufficiently account for the impacts to the surrounding community
- LDEQ's assertion that compliance with state and federal air quality standards alone is sufficient to achieve environmental justices is in incorrect and not substantiated by air monitoring or modeling for the Facility or surrounding area
- LDEQ's treatment of start-up, shut down and malfunction events does not comply with Title V requirements or promote environmental justice
- EPA must object to the permit when the permitting authority has violated the procedure requirements of Title V
- Federal and state law required public notice and comment for any significant modification to a major source permit
- LDEQ significantly modified the Nucor permit and therefore should have conducted notice and comment, but did not
- Nucor's poor compliance history should require stricter permit requirements until Nucor can prove itself a good neighbor and employer
- LDEQ's permit for Nucor is improper and fails to be protective of the environment

A copy of the Petition can be downloaded here.