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Title V/Clean Air Act: U.S. Environmental Protection Agency Order Denying Objection to Warrick County, Indiana Aluminum Production Facility Permit

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The United States Environmental Protection Agency ("EPA") has issued an October 9th Order denying a Petition objecting to the issuance of a Clean Air Act Title V operating permit ("Permit") for the Warrick Newco LLC ("Warrick") facility. See Petition No. V-2024-10.

Warrick is described as a subsidiary of Alcoa Corporation.

The Petition had been submitted by the Sierra Club.

The federal Clean Air Act Title V program includes a provision that allows EPA To object to a Title V permit issued by a delegated state. In other words, Congress provided EPA a Clean Air Act oversight role while mandating that every Title V permit be subject to a 45-day review period before the Title V permit is finalized.

The EPA Administrator can object to a Title V permit at two points.

Any objection may be made during the 45-day review period and in response to a public petition within 60 days after the end of the 45-day review period. Further, even if EPA fails to object to a proposed Title V permit, a right to petition the agency to reconsider its failure to object to the permit is potentially available. However, only those persons who have submitted comments to the draft permit during the applicable comment period have a right to petition.

The right to petition EPA arises at the close of the agency's 45-day review period.

The Petition describes the Warrick facility as an aluminum production plant located in Newburgh, Indiana. The facility is stated to consist of potlines that reduce alumina ore to elemental aluminum and supporting processes. This is stated to include an anode bake furnace and a paste production facility.

The facility is stated to be a major source of particulate matter, sulfur dioxide, nitrogen oxide, volatile organic compounds, and carbon monoxide emissions under Clean Air Act Title V and PSD programs. It is also stated to be a major source of hazardous air pollutants.

The facility is subject to the National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants.

The original Title V Permit was obtained in February 2000 which was subsequently renewed. This Petition addresses a subsequent Title V Permit renewal.

Sierra Club's Petition claims:

...that the Permit, as issued by the IDEM, fails to ensure that any restart of potlines #2 or #6 will occur in compliance with all applicable requirements (arguing that public comments on the draft permit stated that the shutdown potlines #2 and #6 should be removed from the Permit, or, alternatively, the Permit should explain the procedures and requirements for restarting and operating them, specifically requirements related to NSR permitting and NESHAP applicability review).

EPA denies the request for an objection on the claim stating that it presents a "forward-looking permitting or compliance issue, not a problem with how the current Title V Permit is written" (arguing that the Sierra Club does not claim, and it does not otherwise appear, that the Permit shields the source from any future NSR requirements).

A copy of the Order can be downloaded [here](#).