

Improving Kids' Environment

3951 N. Meridian St. #160
Indianapolis, IN 46202
www.ikecoalition.org
Fax: 866-234-8505
317-902-3610
mccabe@ikecoalition.org

August 21, 2009

#09-492 (APCB) Article 2 Initiative: Long Term
Amy Smith Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Submitted via fax to 317-233-5517

Re: Comments on First Notice of Rulemaking

Dear Ms. Smith:

Improving Kids' Environment (IKE) appreciates the opportunity to provide comments on the First Notice of Rulemaking #09-492 regarding the agency's initiative to review the Article 2 Air Permitting Rules. IKE works to reduce environmental threats to children's health in Indiana, including poor air quality that adversely affects Hoosier children.

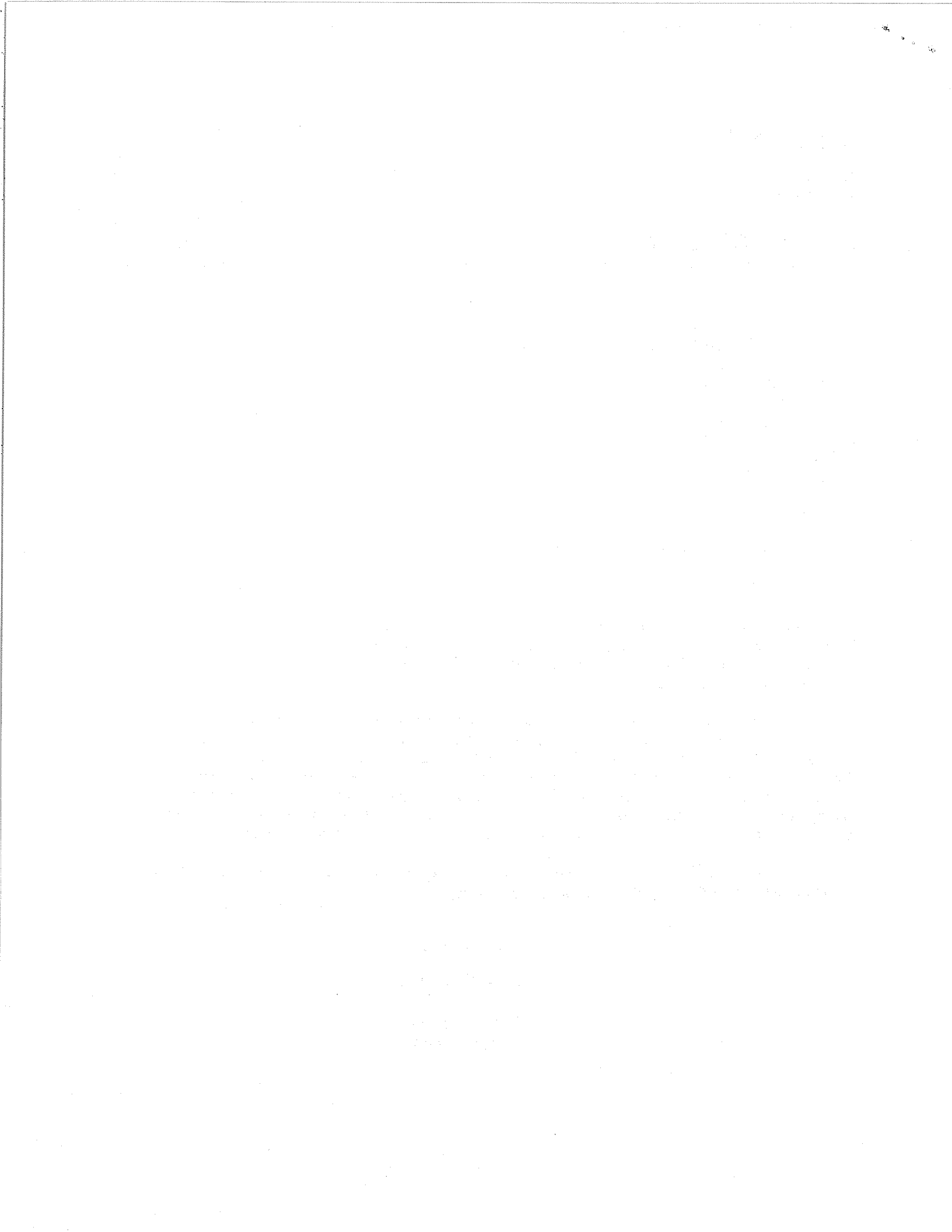
IKE agrees that it is good policy periodically to review permitting rules and supports IDEM's decision to establish a workgroup. Whether and how sources of air emissions must obtain approval is a fundamental element of the state's air pollution prevention program and review of the current rules warrants thorough discussion. The First Notice is not clear on whether there will be a process for appointing the workgroup members or what that process might be. IKE encourages the agency to be inclusive of a wide variety of interested parties. Although I will be out of the country on the date of the first meeting (September 16), please add me to your contact list, as IKE would like to be involved in this rulemaking.

Thank you for the opportunity to provide comment on this Notice. Please feel free to contact me with any questions at 317-902-3610 or mccabe@ikecoalition.org.

Very truly yours,



Janet G. McCabe
Executive Director



www.lilly.com



Eli Lilly and Company
Lilly Corporate Center
Indianapolis, Indiana 46285
U.S.A.

Phone 317 276 2000

August 21, 2009

SUBMITTED VIA FACSIMILIE

#09-492 (APCB) Article 2 Initiative-Long Term
#09-493 (APCB) Article 2 Initiative-Near Term
Amy Smith Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

RE: Comments of Eli Lilly and Company on First Notice of Comment Period for Article 2 Long and Short Term Initiatives

Eli Lilly and Company ["Lilly"] appreciates the opportunity to comment on potential revisions to the Indiana air permitting rules. Lilly operates seven facilities in Indiana subject to various levels of air permitting requirements. Because our research and manufacturing facilities must continually change to make different products and to continually improve existing operations, we consider the implications of these rules nearly every day. Consequently, flexibility and simplicity of the air permitting rules are crucial to our future viability. We strongly urge IDEM, by using stakeholder input, to consider changes to Indiana's air permit rules, and we look forward to participating in that process.

At this stage in the rulemaking process it is difficult to provide detailed comments about improvements that could be made to the program, especially without understanding the interests of the agency, other companies, and environmental organizations. On the other hand, Lilly believes there are some fundamental concepts that should help shape how the Article 2 rules might be revised. In addition, we do have some specific suggestions for improving the rules that we think should be explored during the stakeholder process.

General comments

First and foremost, air permitting rules must be simple and predictable so that people can understand what kind of permit or permit revision they will need and how long it will take to obtain the permit. We recognize that numerous federal permitting rules such as Title V and major NSR must overlay IDEM's permitting system, and that a significant degree of simplification may not be easy to achieve. Simplification can be achieved through several tactics such as better organization of the rules, reducing/optimizing the

Ms. Amy Smith
August 21, 2009
Page 2

number of different types of permits that are needed, and clearly defined applicability criteria.

In addition, the procedural burden imposed by a permitting requirement should correspond to the relative level of decision-making the agency must make in issuing the permit. For example, if a source must obtain a pre-construction permit for a new emission unit that is subject to explicit regulatory requirements and the agency has little or no discretion about the requirements applicable to the source, then the permitting process needed to authorize construction and operation of this new emission unit should be minimal. On the other hand, if the permit review requires a case-by-case determination of applicable requirements such as a BACT determination, then a longer process is justified. Of course there is a lot of gray area in between those examples, but the history of the permitting rules has been to skew more procedural requirements instead of matching the degree of the process to the value added by the process.

Lilly also believes the IDEM permitting rules could be improved by being more consistent within themselves and with federal permitting rules. Definitions of terms are a particular area where this rulemaking process should focus on opportunities for improvement. For example, usage of terms such as "facility", "source", "process", "emission unit" and other terms that define a project or object that may require a permit review must be re-evaluated to make sure they are properly used and consistently used according to their intended meanings. Over time, terms have lost the discipline necessary to eliminate confusion.

Finally, Lilly recommends maintaining the existing flexible air permitting provisions in the state rules and potentially increasing options for flexible permits. Our experience with flexible permitting has been positive, and we would like to explore whether there are more techniques to enhance these kinds of options.

Establishing an effective and efficient permitting program boils down to how well the rules address the three basic elements of permitting:

- When does a project or activity trigger a permitting action?
- What requirements will the permitting process establish for the project or activity independent of other existing regulatory requirements? and
- What process must be followed to establish those requirements?

Establishing each of these elements of the program is an opportunity to improve the program – to make it easier to understand, more efficient, and more effective.

Detailed suggestions

Lilly recommends that IDEM review the USEPA Title V Task Force report to the Clean Air Act Advisory Committee for potential improvements that could be made to the IDEM program. Although the Task Force focused primarily on Title V issues, it did look at both pre-construction permitting and Title V and how they relate to one another. In addition, the Task Force made a number of recommendations about improving the Title V permit modification requirements.

The list below contains some ideas that could be used in either the short term or long term initiative to improve the IDEM air permit program. We have not attempted to define

Ms. Amy Smith
August 21, 2009
Page 3

whether they would be good candidates for the near term or long term initiative because Lilly cannot predict which ones may require a more thorough public vetting of the suggestion. Therefore, we have combined all our suggestions into this single list.

1. Key definitions, whether in Articles 1 or 2, such as "emission unit", "facility", "modification", "potential to emit", "potential emissions", and "source", and the use of these terms throughout the rules should be closely evaluated to make sure the rules clearly achieve their intended meanings.
2. The exemptions in 326 IAC 2-1.1-3 should be reorganized to make the items easier to find. Having a list of items that are exempt is extremely helpful, but the items in the list could be organized more by the type of operation or some other means of enabling someone to find out whether an item is on the list. As it now exists, it is extremely difficult to try to find an item on the list unless you know that it is already on the list or you use a word search tool to find items and you happen to use the right choice of search terms.
3. If there are new candidates for the exemption list in 326 IAC 2-1.1-3, they should be added to the list.
4. With the advent of new technologies and the reduction in the reading newspapers, Indiana should evaluate whether publication in a local newspaper is the most effective and efficient form of providing public notice regarding a permit action.
5. IDEM's rules should provide for opportunities to eliminate permit reviews where there is no value added by the review. For example, if the permitting exercise would do nothing more than add an emission unit to a list of emission units where the requirements are already spelled out in detail and the permit review would not add or modify requirements, then the source should be able to add the emission unit through a simple notification process.
6. IDEM's Title V program rules should allow the use of the off-permit process to quickly incorporate the requirements of NSR permits and newly adopted regulatory requirements into the permit. This is a process that is authorized by the federal Title V program, but Indiana chose not to adopt it when initially establishing the state program.
7. The use of administrative permit amendments and minor permit modifications should be expanded to cover a wide range of title V permit actions where the agency is exercising a limited amount or no discretion in revising a Title V permit.
8. Significant Title V permit modifications should only be required when a source requests changes to its compliance monitoring requirements if those compliance monitoring requirements originated in the Title V permit itself. For example, if the Title V permit established a "gap-filling" compliance monitoring condition for an operation because the underlying SIP rule did not have any monitoring requirements in it, then changes to that monitoring provision would have to be conducted through a significant permit modification. On the other hand, if the change in monitoring was based on an action outside the scope of Title V, such

Ms. Amy Smith
August 21, 2009
Page 4

as a state or federal rule or an alternative monitoring petition approved by USEPA, then that kind of change should be done through an administrative permit amendment or minor permit modification.

Thank you for your consideration of these comments. If you have questions, please contact me at 317-276-0331 or by e-mail at bpaul@lilly.com.

Sincerely,

A handwritten signature in black ink that reads "B. Paul". The letters are cursive and somewhat stylized.

Bernard Paul

Anthony C. Sullivan
(317) 231-7472
tony.sullivan@btlaw.com

www.btlaw.com

August 21, 2009

#09-492(APCB) Article 2 Initiative: Near-Term
#09-493 (APCB) Article 2 Initiative: Long-Term
Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Comments regarding Article 2 Initiative, LSA #09-492 and/or LSA #09-493

Dear Ms. Smith:

This letter is submitted on behalf of CountryMark Cooperative LLP ("CountryMark"), and submits comments regarding LSA #09-492, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Near-Term and LSA #09-493 the Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term. CountryMark generally supports efforts to streamline the air permitting process in Indiana. At this time, CountryMark is submitting one letter with respect to both LSA #09-492 and #09-493, as it is not immediately clear whether proposed changes could proceed under a "near-term" or "long-term" rulemaking.

In addition to the comments expressed above, CountryMark submits the following comments for consideration:

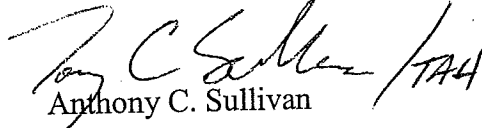
1. CountryMark believes that the implementation of every existing rule into Title V permits slows down permitting process and adds needless language to air permits. CountryMark believes that requirements that generally applicable requirements, especially including those requirements that do not specifically apply to the permitted source, should not be included in Title V permits. Title V permits should include only source-specific requirements. Existing rules should be revised to ensure that needless language does not inundate the otherwise source-specific Title V permit requirements.
2. CountryMark believes that too many permitting actions are processed as significant permit modifications, which impose inappropriate and unnecessary administrative burdens, and therefore supports changes to revise 326 IAC 2-7-11 and 326 IAC 2-7-12 to clarify the applicability of minor permit modifications and administrative amendments.

3. CountryMark supports examining the following definitions to study whether revisions could streamline permitting processes by providing clarity to existing rules and promoting consistent application:
 - a. facility (326 IAC 1-2-27);
 - b. source (326 IAC 1-2-73);
 - c. emission unit (326 IAC 1-2-23.5)
 - d. potential to emit (326 IAC 2-1.1-1(16), (326 IAC 1-2-55 "potential emissions"); 326 IAC 2-2-1(n); 326 IAC 2-3-1(ii); 326 IAC 2-7-1(29); 326 IAC 2-6-2(19);
 - e. modification (with respect to both source modifications and permit modifications); and
 - f. construction (326 IAC 1-2-21).
4. CountryMark supports rule revisions at 326 IAC 1-6-3, 326 IAC 2-7-4(c)(9), 326 IAC 2-7-5(13) to clarify that Preventive Maintenance Plans should apply only to emission control devices.
5. CountryMark supports modifications to the current permitting exemptions rule at 326 IAC 2-1.1-3. Temporary changes, emergency reconstructions, or modifications necessary to maintain operations during extreme conditions should be exempt from permitting and should have fewer pre-construction administrative burdens.
6. CountryMark supports revisions to rules and forms to eliminate unnecessary or redundant information submissions. Existing rules and practices routinely require sources to submit information already within the agency's possession and/or other information that may not be essential for agency review. These rules and practice place administrative burdens on the source that could be reduced to streamline the permitting process. Additionally, duplicative submissions expose sources to greater likelihood that any confidential information submitted will not be fully protected from disclosure. CountryMark supports efforts to streamline information submissions, including permit applications, quarterly or semi-annual reporting requirements, and other submissions so that essential information is provided once to the agency in the most efficient and cost-effective manner.
7. CountryMark supports efforts to explore whether essential information can be submitted electronically. Electronic submissions with electronic signatures can be easy to transmit, and can be easy to store for future reference. Also, we believe that developing and implementing an electronic record submission process will greatly reduce amount of paper used to prepare multiple copies of voluminous reports.
8. CountryMark supports reducing or eliminating the burden on sources to ensure that notice has been given to public libraries. Additionally, we support examining whether electronic notice to public libraries may be appropriate given that most (if not all) libraries have internet access.

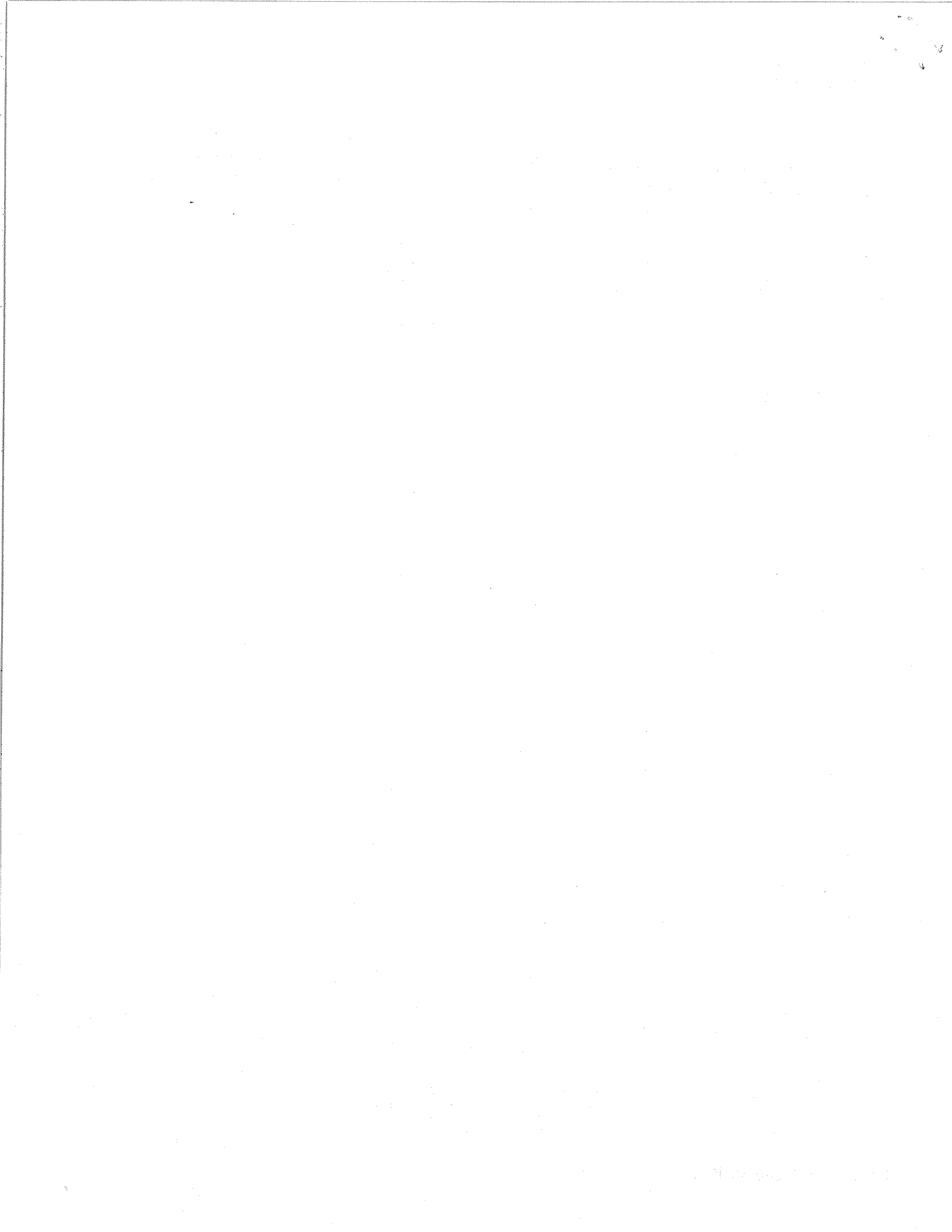
Ms. Amy Smith
August 21, 2009
Page 3

On behalf of CountryMark, we thank you again for allowing us to submit these comments to LSA #09-492 and #09-493. Please do not hesitate to contact us if you have any questions.

Sincerely,


Anthony C. Sullivan

ACS:TAH:je



BARNES & THORNBURG LLP

11 South Meridian Street
Indianapolis, IN 46204-3535 U.S.A.
(317) 236-1313
Fax (317) 231-7433

Anthony C. Sullivan
(317) 231-7472
tony.sullivan@btlaw.com

www.btlaw.com

August 21, 2009

#09-492(APCB) Article 2 Initiative: Near-Term
#09-493 (APCB) Article 2 Initiative: Long-Term
Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Comments regarding Article 2 Initiative, LSA #09-492 and LSA #09-493

Dear Ms. Smith:

These comments are offered on behalf of the Indiana Energy Association (IEA) and individual non-member IEA companies, including Indiana-Kentucky Electric Corporation, Wabash Valley Power, and Hoosier Energy REC, Inc. The IEA is an association of the 13 Indiana investor-owned electric and gas utilities and one public charitable trust energy utility which represent over 97 percent of the baseload electricity generating capacity in the state, as well as the district steam system in Indianapolis, which is impacted by these rules. The IEA and the aforementioned individual non-member companies, collectively referred to as the "Indiana Utility Group" or "IUG", operate 21,374 MW of baseload coal-fired capacity in Indiana and serve over 4,000,000 Indiana customers.

IUG submits these comments regarding LSA #09-492, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Near-Term and LSA #09-493 the Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term. IUG supports IDEM's initiative to streamline Indiana's air permit review rules consistent with federal requirements, and appreciates the opportunity to provide comments.

IUG has done its best to identify issues with 326 IAC 2 and associated rules relating to permitting that could be classified as "near-term" actions or "long-term" actions. However, given only 21 days, it has been difficult to summarize IUG's many collective years of experience with numerous rules and revisions contained in 326 IAC 2, identify specific rules that should be changed, and determine the types of changes that might be feasible. As IUG continues to reflect on its experiences, additional issues may come to light, and IUG anticipates raising additional comments in the future. For example, several comments below address IUG's concerns with rules at 326 IAC 2-7, but similar issues likely exist in other permitting rules, such as 326 IAC 2-

8. IUG anticipates raising these comments as we become aware of the issues. IUG appreciates IDEM's willingness to maintain an on-going dialogue with respect to these rule changes.

While this letter transmits comments related to specific rules and general principles that IUG believes should be addressed in this rule-making, it is not clear to IUG which issues and potential rule changes should be considered "Near-Term" or "Long-Term." As a result, IUG is submitting the same comments for both near-term and long-term consideration.

In addition to the comments expressed above, IUG submits the following comments for consideration:

1. IUG supports changes to revise 326 IAC 2-7-11, 326 IAC 2-7-12, 326 IAC 2-8-10, and 326 IAC 2-8-11.1 to clarify the applicability of minor permit modifications/revisions and administrative amendments. Due to lack of clarity in existing rules, too many permitting actions are processed as significant permit modifications/revisions, which impose inappropriate and unnecessary administrative burdens. For example, IUG does not believe that all changes to compliance monitoring, recordkeeping, or reporting requirements should be considered significant permit modifications/revisions, which appears to be current practice. Additionally, permit modifications/revisions designed to comply with applicable NSPS or NESHAP requirements should not be considered significant permit modifications/revisions. In the collective experience of IUG, there are many other examples of permit modifications/revisions that should be processed through minor permit modifications/revisions or administrative amendments. IUG can provide additional examples in the course of our collective efforts to streamline existing rules.
2. IUG supports examining the following definitions to study whether revisions could streamline permitting processes by providing clarity to existing rules and promoting consistent application:
 - a. facility (326 IAC 1-2-27);
 - b. source (326 IAC 1-2-73);
 - c. emission unit (326 IAC 1-2-23.5)
 - d. potential to emit (326 IAC 2-1.1-1(16), (326 IAC 1-2-55 "potential emissions"); 326 IAC 2-2-1(n); 326 IAC 2-3-1(ii); 326 IAC 2-7-1(29); 326 IAC 2-6-2(19);
 - e. modification (with respect to both source modifications and permit modifications); and
 - f. construction (326 IAC 1-2-21).
3. IUG supports revision to compliance monitoring regulations to specifically define monitoring obligations. Existing language at 326 IAC 2-7-5, 326 IAC 2-7-6, 326 IAC 2-8-4, and 326 IAC 2-8-5 is vague, and should be modified to add clarity. Units subject to the Federal Compliance Assurance Monitoring rule, 40 CFR Part 64 ("CAM"), and Indiana's CAM rule, 326 IAC 3-8, should not be subject to other compliance monitoring

requirements.¹ For units not subject to CAM, compliance monitoring provisions should be developed through permit-specific and unit-specific negotiations with the source.

4. IUG supports rule revisions at 326 IAC 1-6-3, 326 IAC 2-7-4(c)(9), 326 IAC 2-7-5(13), 326 IAC 2-8-4, and 326 IAC 2-8-5 to clarify that Preventive Maintenance Plans should apply only to emission control devices.
5. IUG supports modifications to the current permitting exemptions rule at 326 IAC 2-1.1-3. The current permitting exemptions rule, while helpful, does not allow for real-time decision making in extreme circumstances. IUG members have an obligation to provide service as regulated public utilities including during extreme and severe conditions. Additionally, during times when other utility units are not functioning for maintenance or pollution control upgrades, those units that stay in operation must continue operations to satisfy public demands.

During extreme conditions or when other units are in scheduled downtime, sources must sometimes make temporary changes, commence emergency reconstructions, or make other changes necessary to maintain short-term operations of a unit to fulfill its regulatorily-imposed obligations to serve the citizens of Indiana. Under existing rules, these necessary actions are arguably subject to pre-construction permitting or permitting applicability determinations, subjecting IUG members to potential enforcement for failure to complete such pre-construction administrative hurdle. Temporary changes, emergency reconstructions, or modifications necessary to maintain operations during extreme conditions or during other times when production must continue should be exempt from permitting and should have fewer pre-construction administrative burdens.

6. IUG supports other modifications to the current permitting exemptions rule to clarify that units and activities specifically enumerated at 326 IAC 2-1.1-3 are fully exempt from permitting. This rule current exempts certain units and activities, but also exempts any activity with very low potential emissions. IDEM currently interprets the rule to mean that enumerated activities and units are not excluded from permitting if they exceed the very low potential to emit thresholds. IUG believes this interpretation undermines the potential utility of this rule and unnecessarily increases the permitting burdens for otherwise exempt activities.
7. IUG supports revisions to rules and forms to eliminate unnecessary or redundant information submissions. Existing rules and practices routinely require sources to submit information already within the agency's possession and/or other information that may not be essential for agency review. These rules and practice place administrative burdens on the source that could be reduced to streamline the permitting process. Additionally, duplicative submissions expose sources to greater likelihood that any confidential information submitted will not be fully protected from disclosure. IUG supports efforts


¹ IUG also supports further study as to how IDEM implements federal requirements, which is the subject of LSA #07-372, but will likely be addressed in the course of this action.

- to streamline information submissions, including permit applications, quarterly or semi-annual reporting requirements, and other submissions so that essential information is provided once to the agency in the most efficient and cost-effective manner.
8. IUG supports efforts to explore whether essential information can be submitted electronically. Electronic submissions with electronic signatures can be easy to transmit, and can be easy to store for future reference. Also, IUG believes that developing and implementing an electronic record submission process will greatly reduce the amount of paper used to prepare multiple copies of voluminous reports.
 9. IUG supports reducing or eliminating the burden on sources to ensure that a copy of the permit application has been given to the public library and remains available for public inspection at that location. IUG is concerned that local libraries typically do not know how to handle air permit applications, and it is not clear how useful notices given to the public library truly are. IUG is also concerned that a permit applicant may be responsible, and subject to delays in receiving a permit, for a library's failure to adequately maintain public copies. If library notice requirements are retained, IUG believes that the burden on the permit applicant should be reduced, and input from libraries should be solicited regarding libraries' role in the public process. Additionally, IUG supports examining whether electronic notice to public libraries may be appropriate given that most (if not all) libraries have internet access. Additionally, it has been our collective experience that IDEM information on local libraries is not up to date, thus imposing a greater burden on the source to find actual library contact information.
 10. IUG believes that the availability of general permits should be expanded. IUG supports promulgating general permits for units that have low actual emissions but have high potential emissions, such as emergency generators, or emergency back-up air compressors. Currently, general permits or permits by rule are limited to only sources that have 20% of the potential to emit required to trigger other permitting requirements. The availability of these general permits or permits by rule should be expanded to cover a variety of units with low actual emissions to reduce permitting requirements.
 11. IUG supports revisions to recordkeeping rules at 326 IAC 2-7-5(3) and 326 IAC 2-8-4(3) to allow the flexibility to maintain centralized recordkeeping for all recordkeeping requirements. On-site recordkeeping can be inefficient, costly, and arguably harmful for the environment due to multiple paper copies in various locations. As the industry continues to increasingly rely on electronic records, IUG believes it may be more efficient, more cost-effective, and more environmentally sound to maintain all records in one place, to be made available to the agency upon request. IUG and its members would like the flexibility to manage their records in centralized locations if they chose to do so.

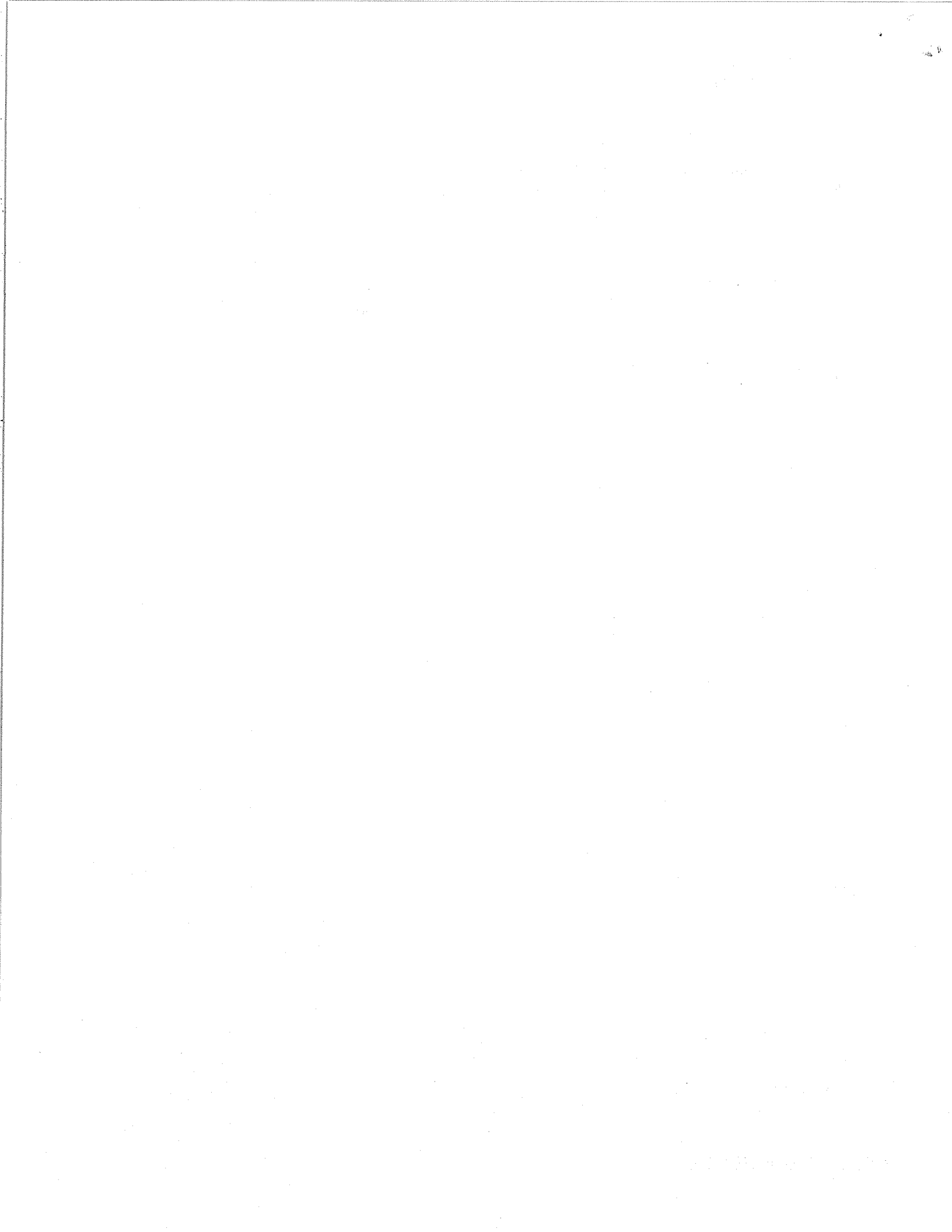
Ms. Amy Smith
August 21, 2009
Page 5

IUG and its members again thank you for allowing us to submit these comments to LSA #09-492 and #09-493. Please do not hesitate to contact us if you have any questions.

Sincerely,


Anthony C. Sullivan

ACS:TAH:je



SENT VIA FAX

August 21, 2009

#09-492 (APCB) Article 2 Initiative-Long Term
#09-493 (APCB) Article 2 Initiative: Near-Term
Amy Smith Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

**RE: Comments on IDEM's First Notice of Comment Period:
*Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term and Near-Term***

Dear Ms. Smith:

Trinity Consultants appreciates the opportunity to provide comments on IDEM's Article 2 Initiative. We believe that this initiative represents an important step for IDEM in establishing a more effective and efficient permitting process. In support of this initiative, we have developed the following list of suggestions to help improve IDEM's permitting process.

326 IAC 2-1.1-1, 326 IAC 2-1.1-2

Under general provisions section of Article 2, add a table listing emissions based permitting thresholds for all permit levels. This could potentially be accomplished either in the definitions or applicability section of 326 IAC 2-1.1

326 IAC 2-1.1-3

Add language to further clarify the difference between an "operation" exemption and a "construction or modification" exemption.

326 IAC 2-1.1-8

Organize the permit time periods by permit type (MSOP, Title V, etc.).

326 IAC 2-1.1-3, 326 IAC 2-7-1

Clarify the distinction between exempt and insignificant activities for Title V sources. Currently the emissions based thresholds in 326 IAC 2-1.1-3 for exempt activities are higher than the levels listed in 326 IAC 2-7-1 for insignificant activities. This frequently results in confusion regarding the permitting level required for an exempt activity - both for sources and for IDEM.

326 IAC 2-7-1

Add language to allow for inclusion of control devices that should be considered an inherent part of the process when calculating potential uncontrolled emissions for an insignificant activity per 326 IAC 2-7-1(21). For example, EPA guidance indicates that a bin vent on a storage silo could be considered an inherent part of the process when calculating potential to emit and also may be accounted for when calculating potential pre-control device emissions for triggering Compliance Assurance Monitoring (CAM). However, this bin vent cannot be included when calculating potential uncontrolled emissions to determine if a unit is an insignificant activity for Title V. In doing this, many units with inherently low emissions cannot be classified as insignificant activities and could be subject to unnecessarily stringent permitting and/or monitoring requirements. For example, addition of a new silo with a bin vent may, under the current rules, require a permit modification under 326 IAC 2-7-12. If inherent control can be used to classify the silo as an insignificant activity under 326 IAC 2-7-1(21)(B), the unit could potentially be added as an administrative permit amendment under 326 IAC 2-7-11(a)(8)(B), reducing the permitting burden on both IDEM and the source. Also, the relatively high potential uncontrolled emissions calculated under the current rules may lead to monitoring requirements (e.g., daily pressure drop readings) that are not reflective of continuous compliance requirements for insignificant activities and that provide little overall environmental benefit.

326 IAC 2-7-11, 326 IAC 2-7-12

Add language to allow for an administrative amendment/exemption for changes which would only require permitting based on triggering an NSPS or MACT modification, and are below the emissions based permitting threshold for a source - assuming all applicable requirements are already included with a source's permit. For example, rules such as NSPS VVa, and IIII, can be triggered by minor physical changes such as addition of valves and adding emergency generators.

326 IAC 2-7-11

Clarify if/when/where an Administrative Amendment is required for a change to be made at a source. IDEM has previously provided verbal guidance on this to the effect that the regulation does not specifically require an Administrative Amendment to be submitted for an exempt change; however, the regulation is not clear on this point. This could possibly be accomplished through a non-rule policy document and not rulemaking.

326 IAC 2-10

Add language to reflect guidance provided by IDEM on the Permit-by-Rule process since the inception of the rule, such as obtaining a Permit-by-Rule for a new source or modifying and existing Permit-by-Rule source.

Ms. Amy Smith – Page 3
August 21, 2009

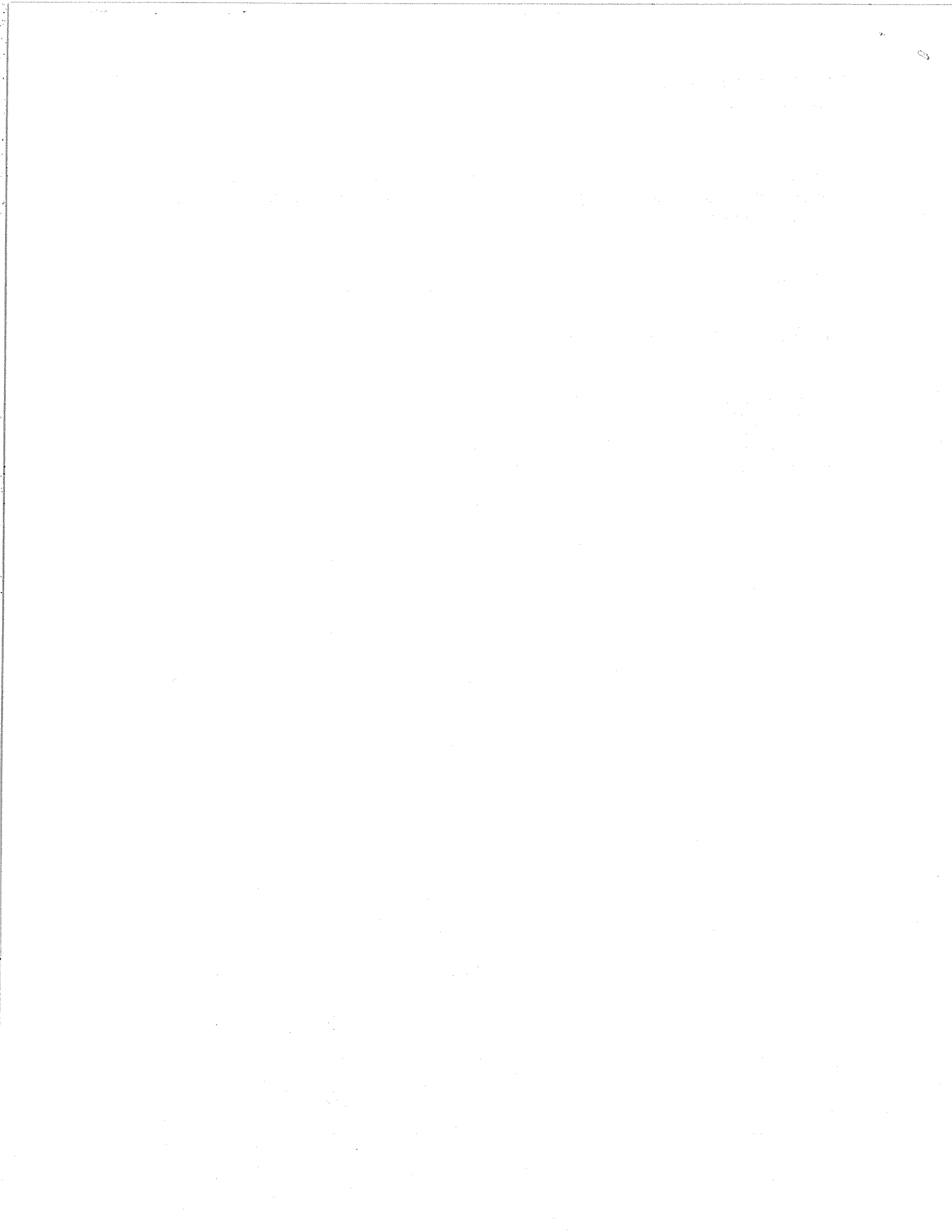
Again, we appreciate the opportunity to comment on the Article 2 Initiative and look forward to attending the upcoming public workgroup to further discuss these changes. Should you have any questions for us, please do not hesitate to contact us at (317) 610-3237.

Sincerely,

TRINITY CONSULTANTS

A handwritten signature in black ink, appearing to read 'D. Dempsey', with a long horizontal stroke extending to the right.

David Dempsey
Senior Consultant



August 19, 2009



sustainability
Mayor Gregory A. Ballard • City of Indianapolis

Sent via facsimile to (317) 233-5517

#09-493(APCB) Article 2 Initiative: Near-Term
#09-492 (APCB) Article 2 Initiative: Long-Term
Amy Smith Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

SUBJECT: Comments on First Notice of #09-493(APCB) Article 2 Initiative: Near-Term
and #09-492 (APCB) Article 2 Initiative: Long-Term

Dear Ms. Smith:

The City of Indianapolis appreciates the opportunity to provide comments on the above rulemaking which is intended to improve the permitting process for the regulated community and continue to be protective of the environment.

While the following comments are in regards to the SSOA portion of Article 2, the City welcomes the opportunity to participate in the workgroup meetings to further contribute to this important rulemaking.

326 IAC 2-9-2.5 Industrial or commercial surface coating operations not subject to 326 IAC 8-2; graphic arts operations not subject to 326 IAC 8-5-5

326 IAC 2-9-2.5(a)

Consideration should be made to define "solvent containing material". Some coatings contain very low amounts of VOC/HAPs and may or may not be considered as "solvent containing material". This would provide direction for the regulated community.

326 IAC 2-9-2.5(b)(4)(C)

Material Safety Sheets (MSDS) should be replaced with Manufacturer Data Sheets. MSDS provide a range for VOC/HAP content but the Manufacturer Data Sheets document the exact percent of VOC and HAPs. This would make the process of calculating emissions and determining compliance clearer.

326 IAC 2-9-3 Surface coating operations or graphic arts operations

326 IAC 2-9-3(3)(C)

Material Safety Sheets (MSDS) should be replaced with Manufacturer Data Sheets. MSDS provide a range for VOC/HAP content but the Manufacturer Data Sheets document the exact percent of VOC and HAPs. This would make the process of calculating emissions and determining compliance clearer.

326 IAC 2-9-3(3)(D)& 326 IAC 2-9-3(3)(5)

Monthly records alone do not support the daily limits in Section 3(2). A monthly summation of daily VOC/HAP usage would provide a correlation for the daily limits in this section.

326 IAC 2-9-4 Woodworking operations

326 IAC 2-9-4(c)(6), (d)(6), (e)(7) and (f)(7)

Method 22 contains provisions for performing VE readings indoors, this section should be clarified to be consistent with current permit language that typically states VEs are performed when venting to the atmosphere.

326 IAC 2-9-8 Crushed stone processing plants

326 IAC 2-9-8(2)

Consideration should be made to match the definition of "Crushed stone" with the definition of "Nonmetallic Mineral" in 40 CFR 60.671, Subpart OOO. Additionally, the definition should include concrete and recycled asphalt pavement crushing.

326 IAC 2-9-11 Automobile refinishing operations

326 IAC 2-9-11(2)

Consideration should be made to define "solvent containing material". Some coatings contain very low amounts of VOC/HAPs and may or may not be considered as "solvent containing material". This would provide direction for the regulated community.

326 IAC 2-9-13 External combustion sources

326 IAC 2-9-13(c)(1)

"Hours operated for each combustion unit" is typically logged by a hour meter on each combustion unit and recorded as total hours operated. To correlate fuel usage, the language should read "monthly hours operated for each combustion unit"

326 IAC 2-9-14 Internal combustion sources

326 IAC 2-9-14(d)(1)

"Hours operated for each combustion unit" is typically logged by a hour meter on each combustion unit and recorded as total hours operated. To correlate fuel usage, the language should read "monthly hours operated for each combustion unit"

Please feel free to contact me with any questions at (317) 327-2270.

Sincerely,



Matt Mosier
Compliance Manager
Office of Sustainability
City of Indianapolis



Citizens Gas | Citizens Thermal | Citizens Resources
2020 N. Meridian St. | Indianapolis, IN | 46202-1393
www.citizensenergygroup.com

August 21, 2009

#09-492(APCB) Article 2 Initiative: Near-Term
#09-493 (APCB) Article 2 Initiative: Long-Term
Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Comments regarding Article 2 Initiative, LSA #09-492 and LSA #09-493

Dear Ms. Smith:

This letter submits comments on behalf of Citizens Energy Group (Citizens) with respect to LSA #09-492, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Near-Term and LSA #09-493 the Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term. Citizens is a member of the Indiana Energy Association and the Indiana Utility Group ("IUG"), and participated in the development of comments submitted on behalf of IUG. Citizens owns and operates a regulated thermal utility business that provides steam to downtown Indianapolis, natural gas local distribution companies, two liquefied natural gas (LNG) plants, and underground natural gas storage fields that have several unmanned stations in Greene County.

Citizens supports the comments submitted on behalf of IUG, and incorporates those comments into this letter. We believe that rule revisions stemming from the issues raised by IUG will contribute to the stated goal of streamlining air permitting processes in Indiana.

In addition to the comments submitted by IUG, we submit the following for consideration:

Citizens supports revisions to the scope and applicability of the permit modifications, especially those in 326 IAC 2-7 and 326 IAC 2-8. IDEM's response to minor and significant modifications is inconsistent and imposes unnecessary burdens on the applicant.

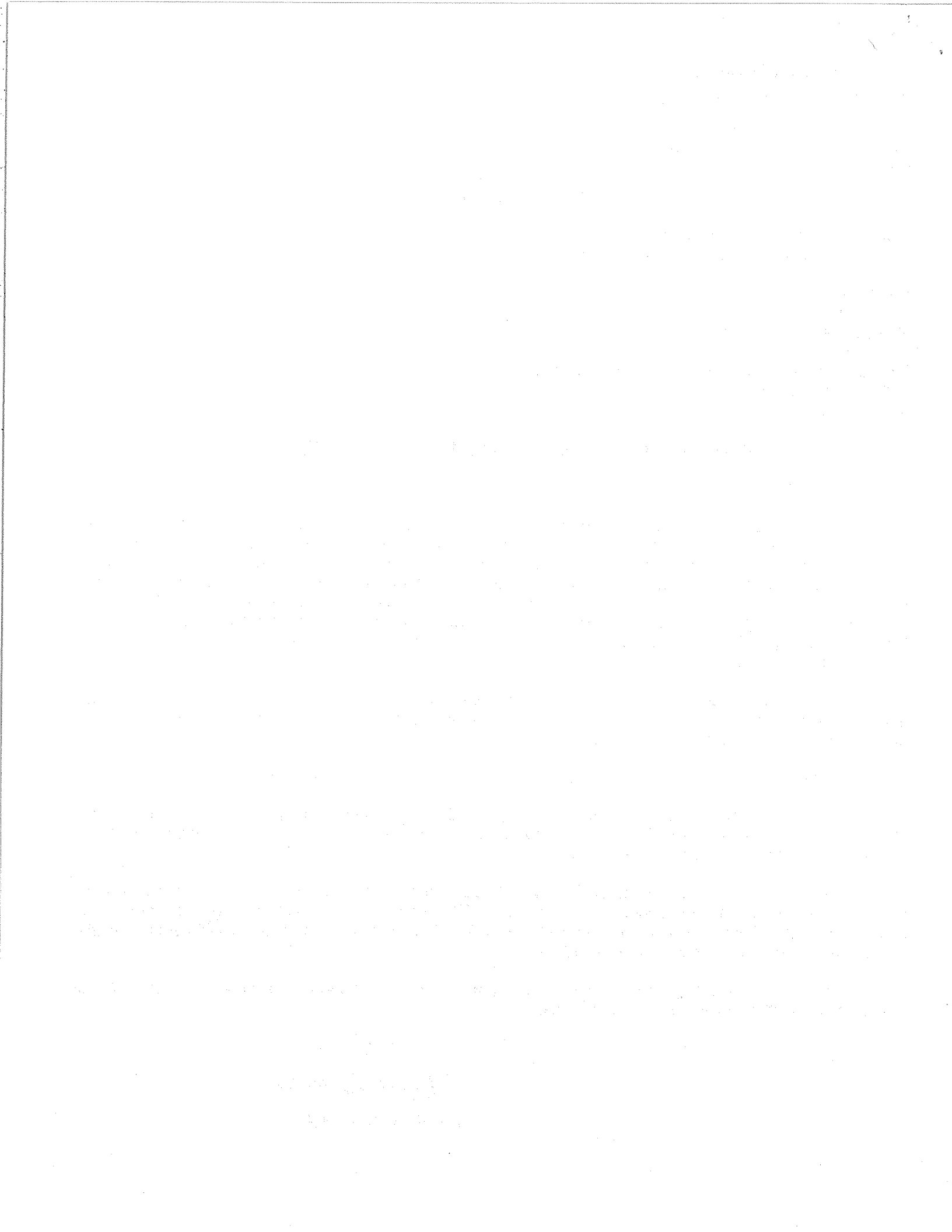
Many of our facilities operate under Title V or FESOP permits and are required to keep records at each location, including the unmanned locations. We support IUG's comment on revision to the recordkeeping rules to allow more flexibility in the inefficient and costly recordkeeping requirement. Citizens would benefit from the ability to maintain records at centralized locations.

Thank you for allowing us to submit these comments to LSA #09-492 and #09-493. Please do not hesitate to contact me if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read 'Ann W. McIver'.

Ann W. McIver, QEP





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AEP.com

August 21, 2009

#09-492(APCB) Article 2 Initiative: Near-Term
#09-493 (APCB) Article 2 Initiative: Long-Term
Ms. Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Dear Ms. Smith:

Indiana Michigan Power and AEP Generating Company (collectively referred to as AEP) appreciate this opportunity to comment on the First Notice for the Article 2 Initiative under LSA Numbers #09-492 and #09-493. Our comments relate to both of these actions as we are not certain where our issues fit under each individual notice. AEP also supports the comments being filed by the Indiana Utility Group (IUG) which are also being filed on a combined basis.

AEP does wish to acknowledge that the recent process improvement work by IDEM OAQ's Permits Branch has improved the flow of permits through the agency. However, improvements in the language and requirements of Article 2 may allow further efficiency gains for the agency.

In addition to the more extensive comments by the IUG, AEP would like to amplify the following items that we believe are important to further improvements in permitting. Our first concern relates to what constitutes an Administrative Amendment, Minor Modification, and Significant Modification of a permit under 326 IAC 2-7-11, 326 IAC 2-7-12, 328 IAC 2-8-10, and 326 IAC 2-8-11.1. Over the past three years, IDEM has been very inconsistent in what they consider Minor and Significant Modifications. We have experienced this situation first hand when a modification at Rockport Plant was considered a Minor Modification in 2006 and an identical application (except for the values in the application) for modification relating to the same equipment in 2009 was classified as a Significant Modification. Article 2 needs to be revised to add clarity to what constitutes each of these levels to minimize the risk of these inconsistent decisions by IDEM in the future and allow the better flow of permit applications through the agency.

Ms. Amy Smith
August 21, 2009
Page 2

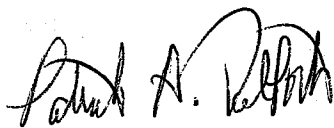
Further, AEP appreciates that IDEM offers permits by rule, General Permits, and Source Specific Operating Agreements (SSOA), in addition to full Title V Permits and Federally Enforceable State Operating Permit (FESOP) in an effort to streamline the permitting process for sources. As part of this proceeding we suggest that IDEM add a section to Article 2 that would implement a program where sources that would be Title V Sources based on potential to emit, but whose actual emissions are significantly below those thresholds could enjoy the flexibility of a Title V like program without all of the red tape such a permit brings. An excellent example of a program of this nature is currently in place in the State of Michigan and is found at R336.1208a. The basic elements of this program are as follow:

- The actual emissions from the facility must be less than 50% of the major source threshold
- An initial notification is made identifying the facility, the emission sources at the site, the potential emissions, and actual emissions
- An emission statement for the facility along with a new certification of compliance with the program is filed annually
- In the event the rolling 12 month emissions exceed 50% of the major source threshold, a notice to the agency must be given within 30 days of the exceedance of 50% of the major source threshold
- Not later than 12 months after the exceedance of 50% of the major source threshold, an application for Title V Permit or FESOP must be submitted
- In lieu of renewing the Title V Permit or FESOP obtained in the previous step, the source can return to the program at a future date if it qualifies
- If new emission sources are added to the facility, a construction permit is required if the equipment is not otherwise exempt from permitting

Indiana Michigan Power currently operates it D. C. Cook Nuclear Plant located at Bridgman, Michigan under this provision and finds it a user friendly and appropriate way to handle the air permit needs of the facility. At this time, we do not appear to have a similarly situated facility in Indiana, but considering that we cannot predict the future, implementing a program of this nature at this time would allow the benefits of this program to accrue to qualifying sources now and in the future.

AEP looks forward to working with IDEM on these rulemakings as they proceed over the coming months. Mr. David Long of my staff will be representing us at Workgroup Meetings as they are called by IDEM. He can be reached by telephone at 614-716-1245 or at djlong@aep.com. If you have any questions on these comments, please contact Mr. Long.

Sincerely,



Patrick A. DalPorto
Manager – Air Quality Services



hand delivered

August 21, 2009

#09-492(APCB) Article 2 Initiative: Near-Term
#09-493 (APCB) Article 2 Initiative: Long-Term
Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

Re: Comments regarding Article 2 Initiative, LSA #09-492 and LSA #09-493

Dear Ms. Smith:

This letter submits comments on behalf of the Indianapolis Power & Light Company ("IPL") with respect to LSA #09-492, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Near-Term and LSA #09-493 the Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term. IPL is a member of (the Indiana Energy Association and) the Indiana Utility Group ("IUG"), and participated in the development of comments submitted on behalf of IUG. IPL supports the comments submitted on behalf of IUG, and incorporates those comments into this letter. We believe that rule revisions stemming from the issues raised by IUG will contribute to the stated goal of streamlining air permitting processes in Indiana.

In addition to the comments submitted by IUG, IPL submits the following for consideration:

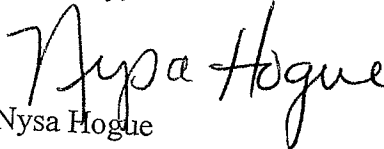
1. 326 IAC 2-7-10.5(d)(4): Modifications limiting PTE to less than the stated levels should be included as Minor Source Modifications processed in accordance with subsection (e) regardless of the means to which emissions are limited. The constraints listed are not consistently utilized by IDEM and other limitations may be applied. For example, IDEM does not typically establish limits through hours of operation [326 IAC 2-7-10.5(d)(4)(B)] or air flow in conjunction with outlet

- concentration [326 IAC 2-7-10.5(d)(4)(C)(iv)]. The list contained in 326 IAC 2-7-10.5(d)(4)(A)-(E) creates confusion, is unnecessary, is not applied consistently, and should be removed.
2. The definitions of facility, source, and emission unit, used continuously throughout Article 2, often create confusion to applicants and permit writers. These definitions should be revisited, and, possibly revised, especially to eliminate the redundancy of "facility" which could be applied to both "emission unit" and "source."
 3. A clear definition of "construction" needs to be established. Applicants are often unclear on when construction begins, whether it is the moment that ground is broken, parts of an emission unit are brought onsite, or when the assembly of those parts begins. For a pre-assembled emission unit, it is unclear whether construction/installation begins when the unit is positioned and connected to power or when the unit crosses the property line at the source.
 4. A definition of "modification" should be clarified. For purposes of determining a level of permitting, the PTE of the modification should be only the increase in PTE of the emission unit which will experience an increase in capacity. This often creates confusion when permit writers attempt to apply the entire PTE of the existing emission unit or process.
 5. 326 IAC 2-7-12(b) (1) (B): Clarification should be provided as to what is considered "significant changes to existing monitoring, reporting, or record keeping requirements" to promote consistency and predictability of permit level. IPL recommends clearly listing each activity that would trigger a significant permit modification.
 6. 326 IAC 2-7-24: The streamlining process should be simplified such that a source wanting to streamline requirements for any given unit can provide a general request to IDEM at any given time prior to EPA review.

Thank you for allowing us to submit these comments to LSA #09-492 and #09-493.

Please do not hesitate to contact me if you have any questions.

Sincerely,


Nysa Hogue

Senior Environmental Coordinator

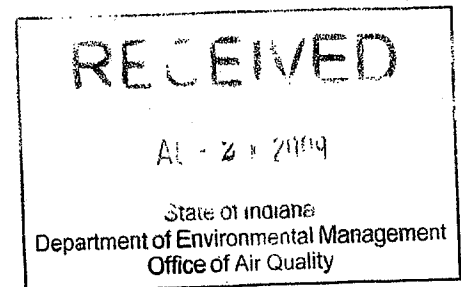
Indianapolis Power & Light Company

August 21, 2009

Jennifer K. Thompson
Attorney
jthompson@binghammchale.com

#09-492 (APCB) Article 2 Initiative-Long Term
#09-493 (APCB) Article 2 Initiative-Near Term
Amy Smith Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, Indiana 46204

Via Hand Delivery



Re: Development of Amendments to Rules Concerning the Air Permit Review Rules:
Article 2 Long and Short Term Initiatives

Dear Ms. Smith:

In response to the Indiana Department of Environmental Management's ("IDEM's") First Notice of Comment Periods for LSA Documents #09-492 and #09-493, the CASE Coalition respectfully submits the following comments.

The CASE Coalition is an Indiana-based association of industrial and manufacturing companies, each with significant operations in Indiana. Our members produce such goods as steel, chemicals, pharmaceuticals, and automobiles.

The CASE Coalition supports IDEM's efforts to streamline Indiana's air permitting rules to improve the efficiency of issuing permits and appreciates the opportunity to participate in the Article 2 Initiative Workgroup which will be formed to assist IDEM in determining which issues should be addressed in the two above-referenced rulemakings. Participation in the workgroup provides affected parties a real opportunity to bring issues to the IDEM's attention prior to the formation of draft rule language. The workgroup setting also provides IDEM the opportunity to request information from affected parties as it makes important decisions regarding the rulemaking actions.

It is extremely important to Indiana business that sources, the public and IDEM understand when and how a permit application should be processed, therefore, the CASE Coalition supports

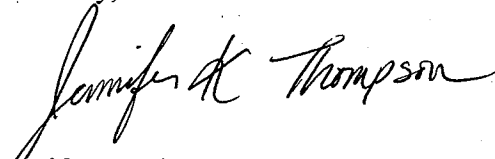
August 21, 2009
Page 2

IDEM's efforts to clarify rule applicability. Additionally, the CASE Coalition agrees that IDEM can further streamline the permitting process by removing redundant and non-value added administrative requirements that are not required by federal rule or state statute. The United States Environmental Protection Agency's ("U.S. EPA's") Title V Task Force recommendations for improving the Title V presented to the Clean Air Act Advisory Committee in April 2006 provide many good suggestions for not only improving Title V permitting, but all types of air permitting programs. This report can be downloaded from U.S. EPA's internet site at:

http://www.epa.gov/air/caaac/tvtaskforce/title5_taskforce_finalreport20060405.pdf

The CASE Coalition looks forward to discussing the issues that are raised by IDEM and/or other interested parties as a result of this comment period at the first workgroup meeting on September 16, 2009.

Sincerely,



Jennifer K. Thompson
Counsel for the CASE Coalition

14578.44639//1423322



Environmental, Health & Safety
801 E. 86th Avenue
Merrillville, IN 46410

OFFICIAL COMMENT August 21, 2009

#09-492 (APCB) Article 2 Initiative – Long Term
and #09-493 (APCB) Article 2 Initiative – Near Term
Amy Smith
Mail Code 61-49
c/o Administrative Assistant
Rules Development Branch
Office of Legal Counsel
Indiana Department of Environmental Management
100 North Senate Avenue
Indianapolis, IN 46204

RE: Comments regarding Article 2 Initiative, LSA #09-492 and LSA #09-493

Dear Ms. Smith:

NiSource thanks you for the opportunity to comment on LSA #09-492, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Near-Term and LSA #09-493, the Development of Amendments to Rules Concerning the Air Permit Review Rules: Long-Term. NiSource is a member of the Indiana Energy Association (IEA), the Indiana Utility Group (IUG), participated in the development of and support the comments submitted on behalf of the IUG. We hope the rule revisions stemming from the issues raised by the IUG and our comments below will contribute to IDEM's stated goal of streamlining Indiana air permitting processes.

We submit the following comments for consideration:

1. Due to the complexity and quantity of the rules in 326 IAC 2, and the relatively short initial comment period, we are unable to clearly identify which areas would clearly fall into either the "near-term" or the "long-term" category. Therefore, we are providing one set of comments to address both the above captioned proposed rulemakings. We are continuing the process of examining the permitting rule language and working to identify past permitting difficulties resulting from the structure and content of the current permitting rules. We appreciate IDEM's establishment of a workgroup to facilitate the exchange of information between IDEM and interested parties, and look forward to providing more detailed comments and recommendations at the workgroup meetings and throughout the rulemaking process.
2. We encourage IDEM to provide a list of changes it proposes to make that are based on EPA recommendations from the earlier SIP approval process so meaningful review and comment

on these changes can be provided. Similarly, we recommend IDEM share the results of the IDEM internal survey and provide a listing of potential rule revisions being considered as a result of that survey, for discussion during the workgroup process.

3. We recommend the structure of the rules be examined and restructured if possible to assist in providing clarification for permitting thresholds for proposed projects (regardless of whether it is a new source or a modification), the permit type that must be obtained, the public participation requirements, the timeline for being able to receive the permit and begin construction, and when the changes/process will be able to begin operation.
4. We recommend IDEM clarify what a health based standard is and what a technology based standard is.
5. We recommend the language of 326 IAC 2-3-3(b) be examined regarding the dependence on an approved attainment demonstration in order for emission reductions from shutdowns to be creditable. The requirement/restriction on the ability to receive offset credit from emission reductions achieved from shutdown of an existing source or permanent curtailment of production or operating hours below baseline levels should not be contingent upon an EPA approved attainment demonstration. Further, the provisions for reductions to be creditable in the absence of an approved attainment demonstration are overly restrictive. As currently worded, they restrict the ability for a company to use reductions from process that are shutdown or curtailed prior to the application being filed. This limits a company's flexibility and ability to modernize by effectively limiting use of offset credits to only direct replacements for curtailed and shutdown sources.

If you have any questions on these comments to LSA #09-492 and #09-493, please do not hesitate to contact me at 219-647-5240.

Very truly yours,



John M. Ross
Manager, Environmental Policy
EH&S
NiSource Corp. Services