

BEFORE THE ADMINISTRATOR
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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In the matter of the Proposed Title V
Operating Permit for

G-P GYPSUM CORP
1101 S FRONT STREET
Camden, NJ 08103
Permit ID: BOP990001

Proposed by the New Jersey Department of
Environmental Protection

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ENVIRONMENTAL PROTECTION
AGENCY REGION 10
2005 SEP 23 AM 11: 28
DEPP-APB

**PETITION REQUESTING THAT THE ADMINISTRATOR OBJECT TO
ISSUANCE OF THE TITLE V OPERATING PERMIT FOR
G-P GYPSUM CORP PLANT LOCATED IN CAMDEN, NJ**

Pursuant to the Clean Air Act § 505(b)(2) and 40 CFR § 70.8(d), South Jersey Environmental Justice Alliance hereby petitions the Administrator of the United States Environmental Protection Agency ("U.S. EPA") to object to Title V Operating Permit issued to G-P GYPSUM CORP for its 1101 S Front Street, Camden, NJ plant. The permit was proposed to U.S. EPA by Robert Mann of the Bureau of Operating Permits of the N.J. Department of Environmental Protection ("DEP"). According to the June 1, 2005 letter, U.S. EPA's 45-day review period ended on approximately July 18, 2005. See June 1, 2005 DEP letter attached hereto as Exhibit A. This petition is filed within sixty (60) days

following the end of U.S. EPA's forty five day review period as required by Clean Air Act § 505(b)(2).

Introduction

The South Jersey Environmental Justice Alliance submitted two comment letters on the draft Title V permit, dated December 19, 2003 ("December 2003 letter") and June 22, 2004 ("June 2004 letter"). Attached hereto respectively as Exhibit B and Exhibit C).

GP Gypsum is located in South Camden, New Jersey. There are already several "Title V" facilities located within a mile radius of the residential core of South Camden. See June 22, 2004 letter, Exhibit C at 1. South Camden already has very poor air quality, with PM 10 readings among the highest in the state. Id. Former Governor McGreevy issued an Executive Order on Environmental Justice ("McGreevey E.O.") which states, *inter alia*, that programs and policies designed to protect the environment " . . . meet the needs of low-income and communities of color, and seek to address disproportionate exposure to environmental hazards." The Executive Order mentions the City of Camden as one of these communities.

Therefore, it is vital that the U.S. EPA object to the final Title V permit for the Gypsum plant and address the concerns raised by the Petitioner herein and in their comment letters.

I. Statement of Basis

This permit lacks a statement of basis, as required under 40 CFR §70.7(a)(5). A statement of basis sets forth the "legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). Id. "The permitting authority shall send this statement to EPA and to any other person who requests it." Id.

The statement of basis must include a description of the facility, with all of the emission units and the pollutants from the units, including any pollution control equipment or limitations on operations to ensure compliance with the Clean Air Act.

In addition, one of the primary purposes of the statement of basis is to provide an explanation of the Permitting Authorities periodic monitoring decisions, especially if a facility is required to perform less monitoring than one would normally expect to be required. This explanation is essential in order to ensure public participation that this facility is complying with its permit.

Furthermore, the statement of basis for this facility must discuss the past violations and the compliance schedule with the corrective actions taken and fines paid. It must state how the compliance schedule will bring the facility into compliance or how it will ensure compliance with all applicable conditions in the future.

II. Compliance plan and schedule

Under 40 CFR 70.5(b)(8), the facility should have filed a compliance plan and the NJ DEP should have required a compliance schedule. The compliance plan must contain:

- For applicable requirements with which the facility is in compliance, a statement that the source will continue to comply with such requirements. 40 CFR 70.5(b)(8)(ii)(A).
- For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements. 40 CFR 70.5(b)(8)(ii)(A). (emphasis added)

The latter is particularly significant, as

The facility has violated its permit conditions in the past. In specific, it was cited in 2002 for exceeding particulate emissions levels. In addition, it had been cited for failing to comply with monitoring and reporting requirements.

June 2004 letter, p. 2.

Therefore, under 40 CFR 70.5(b)(8)(iii)(C), a compliance schedule is needed. This schedule should contain:

...remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in noncompliance at the time of the permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject.

Accordingly, the permit must be modified to include the compliance schedule and a schedule for "compliance certification".

III. Past Violations

The DEP must assess penalties against GP Gypsum for violating its permit, as "[a]ny permit noncompliance constitutes a violation of the Act and is grounds for enforcement action: for permit termination [and] revocation." If the DEP has chosen to enter into an administrative consent order to address these violations and exceedances than the Statement of Basis must provide an explanation of how DEP determined that the violations have been addressed and the measures taken to avoid further violations.

In addition, the DEP has the authority to add remedial provisions to ensure compliance and prevent further violations. These discretionary inclusions by DEP would not substantially change the underlying existing provisions and would ensure that the facility is taking remedial action to ensure compliance on a continual basis.

IV. Strengthen Monitoring and Reporting Requirements

In order to prevent GP Gypsum from violating its Title V permit, the DEP must strengthen the monitoring and reporting requirements.

Under 40 CFR 70.6(a)(3)(iii)(A), these reports must be submitted every six months.

There is no indication that the eight new monitoring provisions are in response to GP Gypsum's violations or how they will prevent violations in the future.

V. Reduce facility emissions

The DEP must reduce facility emissions to ensure that the facility does not cause unsafe ambient air levels for PM 2.5 and the air toxins listed above, as identified in the Air Toxics study.

Although the DEP has concluded that the Waterfront South neighborhood generally has high concentrations of PM 2.5, it is delaying any action until after the USEPA has finalized the PM 2.5 implementation rule in 2006 and will not have a final implementation plan until, the earliest, 2008. The DEP can take the steps now to begin addressing the impacts of PM 2.5, especially given the health studies and air quality studies of this Camden neighborhood. The DEP needs to address this as one of the initiatives that it can take under the McGreevey E.O.

VI. Comply with the State and Federal Environmental Justice Executive Orders

State and Federal laws prohibit environmental discrimination against low-income, minority communities. Title VI of the Civil Rights Act of 1964 and the U.S. EPA's enforcing regulations mandate the DEP to consider the unequal burden already placed on these communities and take special measures to limit pollution. The Presidential Executive Order 122898, signed in 1994, directs federal agencies to address disproportionately high and adverse human health effects of their policies on minority and low-income populations. ("Clinton E.O."). Governor McGreevey's Order on

Environmental Justice requires the DEP to identify facilities in low-income communities and address their impact on the community. In issuing an air permit under the federal Clean Air Act, DEP has an obligation to meet the obligations under both the Clinton E.O. and the McGreevey E.O.

The Camden community is a low income minority community consisting of Black and Hispanic residents. They suffer disproportionately from a high percentage of asthma and other lung related diseases. There exists high incidences of cancer as a result of the accumulation of toxins and dangerous pollutants that are emitted from the many facilities that are located in this community. Their effects are evident in the health of the residence in the Camden area, especially those in close proximity to the pollutants.

The Petitioner brought these environmental justice issues to the attention of DEP in its letters of December, 2003 and June, 2004. The DEP, in its Hearing Report, says it is committed to improving the quality of life for residents in the Camden Waterfront South neighborhood. It also says that it is working hard to address environmental concerns in Camden. However, it is not decreasing the number of Title V facilities in the area nor reducing the allowable emissions from these facilities. DEP intends to wait until 2008 to implement regulation of PM 2.5. Although the DEP realizes that PM 2.5 is unsafe, it will wait three or more years to reduce this type of emission.

DEP must heed the sense of urgency in the community and respond to the environmental justice orders currently in place.

Conclusion

In light of the numerous and significant violations of 40 CFR Part 70 identified in this Petition, the Administrator must object to the proposed Title V permit for G-P Gypsum Corp's Camden, NJ plant.

Respectfully Submitted,
FOR SOUTH JERSEY ENVIRONMENTAL JUSTICE ALLIANCE

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Newark, NJ