UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NY 10007-1866

FEB 28 2006

Lisa Jackson, Commissioner
New Jersey Department of Environmental Protection
P.O. Box 402
Trenton, New Jersey 08625-0402

Re: EPA's Evaluation of New Jersey's Operating Permits Program

Dear Commissioner Jackson:

The United States Environmental Protection Agency (EPA), Region 2 Office completed an evaluation of New Jersey's Operating Permits Program on June 22, 2005. This program received full approval from EPA on November 28, 2001, pursuant to title V of the Clean Air Act (CAA) and its implementing regulations codified at 40 C.F.R. § 70. As part of its oversight responsibility, EPA must periodically evaluate operating permit programs being implemented by the states to ensure conformance with said statutory and regulatory requirements.

The detail of EPA's evaluation and its findings are included in the enclosed report. I am pleased to inform you that New Jersey has performed well in adding monitoring requirements where appropriate, providing assistance to small businesses, and developing training materials to promote consistency in permit writing, among other things. I am also pleased to know that New Jersey has completed the issuance of all initial operating permits by its deadline of December 31, 2005 with the exception of one that is still in the development stage. The task of issuing a comprehensive operating permit to each of 409 facilities was a tremendous effort, and meeting this deadline had been New Jersey's top priority for the past three years.

Without going into any detail, I would like to bring to your attention three of the problem areas identified in the report. The first one concerns the designation of certain regulatory requirements in the "Federal Only" section of some of the permits. Such practice in essence labels these requirements not enforceable by New Jersey, which conflicts with 40 C.F.R. § 70.4(b)(3). The second problem concerns adding permit conditions that are not based on any federally enforceable underlying requirements. The third problem concerns the incorporation of MACT requirements by reference, causing confusion for facilities regarding their compliance obligations. These issues can lead to issuing permits that are inconsistent with both federal and state regulations. EPA has made recommendations on correcting these and other issues in Section IV of the report. To ensure that each of the identified issues is resolved in a timely manner, please provide a response to EPA's recommendations and where necessary, an action plan of rectification within 60 days of your receipt of this letter and the enclosed report.

I would like to take this opportunity to thank Mr. William O'Sullivan and his staff for the cooperation extended to us in completing this evaluation. In particular, Mr. John Preczewski and Mr. Richard Langbein have provided much assistance in this effort. If you have any questions regarding this letter or the enclosed report, please have your staff contact Mr. Steven C. Riva, Chief, Permitting Section, Air Programs Branch, at (212) 637-4074.

Sincerely,

Alan J. Steinberg
Regional Administrator

Enclosure

cc: John Preczewski, Chief
Bureau of Operating Permits
NJDEP