A.J. Sagady & Associates r Alaska Center for the Environment r Alaska Clean Air Coalition r American Lung Association of Washington r California Communities Against Toxics r Campaign for a Prosperous Georgia r Cancer Awareness Coalition r Citizen Alert r Citizens for Clean Air and Water r Clean Air Council r East Michigan Environmental Action Council r Ecology Center of Ann Arbor r Environmental Advocates r Environmental Defense Center r Environmental Working Group r Great Lakes United r Hamtramck Environmental Action Team r Kentucky Resources Council, Inc. r Legal Environmental Assistance Foundation r Long Island Sound and Hudson Against Atomic Development r Metro Justice r Michigan Environmental Council r Natural Resources Council of Maine r New Jersey Environmental Lobby r NJ/NY Environmental Watch r New York Public Interest Research Group r Nuclear Free New York r Renewable Energy Works! r Richard Radford, Sierra Club r Rockland County Conservation Association r Sierra Club, Great Lakes Program r Sierra Club, Ozark Chapter r Standing for Truth About Radiation r Trial Lawyers for Public Justice r Valley Watch, Inc. r Westchester People's Action Coalition r David Wooley, Clean Air Task Force, Pace Law School

July 21, 1999

By Email (carraway.candace@epa.gov), Facsimile (919-541-3189), and Regular Mail
Candace Carraway
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United States Environmental Protection Agency
USEPA Mailroom MD-12
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Re: Comments on EPA's Draft Plan for Citizen Involvement in the Title V Program

Dear Ms. Carraway:

Thank you for providing us with an opportunity to review EPA's draft plan for citizen involvement in the Title V program. We believe that the Title V program offers an unprecedented opportunity for concerned citizens to ensure that facilities located in their communities are complying with air quality laws. Thus, we are encouraged by EPA's proposed plan to educate members of the public about public participation opportunities under Title V.

We enthusiastically support all of EPA's proposed efforts to assist citizens who desire to participate in the Title V program. At the outset, however, we want to emphasize that citizen training programs are the most important and pressing need at the moment. Across the country, the majority of Title V permits are being issued absent any public involvement. The overriding explanation for this dearth of public involvement is that members of the public are simply not aware of the program. Though Congress intended for Title V to improve the public's ability to monitor industry compliance with air quality laws, until recently few attempts

were made to educate the public about the program. EPA's other strategies for supporting public participation cannot succeed unless EPA proceeds immediately with the proposed training programs.

Timing of training programs:

Citizen training programs need to take place as soon as possible. We are concerned that by the time EPA offers training, the majority of initial Title V permits will already be released. Most states already missed the three year statutory deadline for issuing permits. As a result, we are likely to see a large number of permits issued over the course of the coming year. Therefore, EPA needs to offer the initial wave of introductory training programs as early in fiscal year 2000 as possible.

The draft plan indicates that EPA would like to offer an introductory training prognd that these programs will most likely be state-specific. Unfortunately, the draft plan does not provide for a citizen training in every state during fiscal year 2000. In light of the fact that citizens need to be trained as soon as possible, it might be more sensible to make the programs less state specific so that citizens from multiple states in a region could benefit from the training. A speaker from each of the state agencies located in a region could give a presentation during a "break-out" session, when citizens from each state could attend separate presentations. In that way, attendees would have an opportunity to learn about state specific issues, but EPA would avoid leaving the citizens of some states without access to training during fiscal year 2000.

Finally, we hope that EPA's plan for offering citizen training will not be bogged down by disputes over related issues, such as whether it is appropriate for EPA to issue guidance pertaining to public participation issues. If this happens, EPA needs to move forward with citizen training independent from other aspects of the outreach plan.

Involvement by state agencies and regional EPA offices

According to the draft plan, OAQPS will work with EPA's Regional Offices to offer introductory training. A collaborative effort between OAQPS and EPA's regional offices is a good idea, but it is essential that OAQPS be heavily involved in every introductory training conference. OAQPS supervision is critical because policies on various Title V issues vary from region to region, and information presented at the introductory training programs must be nationally consistent. While citizens need to be aware of policies that are unique to their EPA region, it is important that they also know how their region's policies differ from those of other regions. To ensure that the training sessions present a complete picture of the Title V program, staff members from both the appropriate EPA regional office and OAQPS must be in attendance.

The draft plan also indicates that State permitting agencies will be involved in presenting information at these workshops. We agree that state permitting agencies can

provide helpful information about their particular state program. For example, a state agency staff member could walk citizens through the standard permit application developed by the state and explain the structure of a state-issued Title V permit. Furthermore, a state agency staff member could provide details regarding where public notices are published, and how citizens can use the state freedom of information law to obtain information. Beyond offering a presentation on these state-specific issues, however, state agencies should not be heavily involved in developing and administering the citizen training programs proposed in EPA's draft plan. Almost every state is currently operating a Title V program under interim approval, not full approval, meaning that nearly every state program is suffering from some sort of deficiency. Often, these deficiencies are the result of fundamental policy differences between the state permitting authority and the EPA. Citizen training programs must not become a forum for state agencies to push interpretations of program requirements that differ from EPA interpretations.

Travel and lodging expenses

The draft plan does not mention any scholarship assistance for citizens who cannot afford travel and lodging expenses while attending a citizen training program. Such assistance is critical for many citizens who are interested in attending EPA-sponsored training sessions, and must be included in the plan.

Technical Assistance

The draft plan does not mention any technical assistance for citizens who engage in permit review following Title V training. Currently, citizens who need assistance from EPA on complex Title V issues must rely upon the goodwill of EPA staff members at headquarters and at regional offices. At present, however, there is only a handful of citizens reviewing Title V permits. After EPA begins offering Title V training, we hope that many more citizens will become involved in the program. Because permit review is quite challenging, EPA will certainly see an increase in the number of requests for technical assistance. EPA's plan should include some way to meet the inevitable public demand for technical assistance. In particular, EPA should plan to formally designate competent staff members at EPA headquarters and at Regional offices who will serve as contact points for technical inquiries. Staff members designated as public contacts must possess comprehensive knowledge of the law and policy governing Title V proceedings.

It is conceivable that state agencies could offer technical assistance to the public. Based upon the experience of citizen who are already reviewing Title V permits, however, the greatest need for technical assistance arises when citizens encounter a problem or anomaly in a Title V permit. It is unreasonable to expect state agencies to assist citizens in identifying problems with state-issued draft permits. While state agencies are certainly well equipped to answer questions about how a particular type of facility operates, most questions posed by citizens who are just starting to review permits will focus upon interpretation of regulations rather than questions about air pollution engineering. Therefore, while we welcome any technical assistance, it is clear that technical assistance from EPA will generally be preferred.

Citizen involvement in planning training sessions

One component of EPA's plan involves developing better lines of communication with citizens. OAQPS believes that the citizen training conferences will help establish this link between EPA and citizens. We agree that improved communications will lead to substantial improvements in the Title V program. It is important, however, that citizens be involved in planning the training sessions, themselves. Last February, citizens in every region of the country signed on to the petition requesting EPA-sponsored Title V training. EPA should plan to reach out to these citizens and involve them in planning training sessions in their respective regions.

Advanced training workshop

The draft plan proposes to offer an advanced training workshop for citizens who have completed the introductory training, are already engaged in reviewing permits, or are otherwise ready for a more technical training on the major issues involved with permit review and implementation of the permit program. We strongly support this aspect of the plan. At present, the regulations and policies underlying the Title V program are in flux, and it is very difficult for concerned citizens to keep pace with these changes. As a result, the public 's perspective on national issues affecting Title V implementation is severely under-represented. Periodic advanced training workshops are the essential prerequisite for effective citizen participation in the development of Title V law and policy.

As discussed in relation to the introductory training sessions, it is important that the first advanced training conference be held as soon as possible. Furthermore, if EPA plans to offer only one advanced training session each year, then that session must be accessible to concerned citizens across the country. Scholarship assistance to help cover travel and lodging assistance is necessary and should be mentioned in the plan.

Website Improvements

We support EPA's efforts to upgrade its website to better explain the Title V permitting program and opportunities for public involvement. In addition to improving the website maintained by EPA headquarters, however, citizens need better internet access to state-level permitting information. At present, citizens often encounter high copy charges and time delays when trying to obtain a copy of a facility's permit application and draft permit during the 30-day public comment period. These barriers seriously inhibit public participation in permitting proceedings. The best way for EPA to use the internet to assist public participation efforts is to ensure that permits and permit applications are readily available to the public on either EPA or state-run websites.

EPA Guidance Documents Dealing With Issues of Concern to Citizens

At this point, EPA Title V guidance documents focus primarily upon how to make the program more manageable for industry and state governments. Meanwhile, many issues that are of particular concern to citizen groups are ignored. Examples of issues that need clarification from EPA include, among others:

Public notice requirements, public access to information
Requirements for facility compliance certifications, and how these requirements should be included in Title V permits.
Required contents of monitoring reports that a facility must submit every six months after receiving a permit.

EPA guidance documents clarifying these issues would promote national consistency and provide citizens with support in their efforts to make state Title V programs more publicly accessible. It is also important that EPA recognize that unless information is publicly accessible and unless monitoring reports and compliance certification contain adequate information about a facility, the Title V program will not be particularly useful for citizens who wish to participate in air quality regulation and enforcement.

Measuring the success of the plan for citizen involvement

We agree that EPA should keep track of as many indicators as possible to monitor progress in achieving citizen participation goals. It is important to recognize, however, that the most important measures are the number of comment letters received on draft permits and the number of citizen petitions to EPA to object to a permit. If all the other measures show progress, but these there is no substantial increase in the number of comment letters and petitions, public outreach efforts cannot be considered successful.

We look forward to EPA's implementation of the outreach efforts proposed in this draft plan. We would appreciate it if you would inform us of any changes or additions made to the plan in response to comments. Please direct your response to these comments to Keri Powell at the New York Public Interest Research Group, Inc., 9 Murray Street, New York, New York 10007, (212) 349-6460.

Sincerely,

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