UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 0 3 2009

REPLY TO THE ATTENTION OF:

R-19J

Steven Chester, Director
Michigan Department of Environmental Quality
525 West Allegan Street
Constitution Hall, 6th Floor South
P.O. Box 30473
Lansing, Michigan 48909-7973

Dear Mr. Chester:

I understand that the Michigan State Legislature is currently considering revisions to the Michigan Department of Environmental Quality's (MDEQ's) proposed Renewable Operating Permit (ROP) Program air emissions fees. Michigan's ROP Program is required by Title V of the Clean Air Act (Act), and is also known as the Title V Operating Permit Program. The Title V Operating Permit Program is an important tool for ensuring that sources meet their air emissions requirements. We fully support MDEQ's efforts to ensure that Michigan's Title V air emissions fees meet the requirements of the Act.

As you are aware, Title V requires states to develop and submit to the U.S. Environmental Protection Agency for approval, an operating permit program for stationary sources of air pollutants. Section 502(b)(3) of the Act requires that each state establish a fee structure that is sufficient to cover all reasonable (direct and indirect) costs necessary to develop and administer the program. Pursuant to Section 502(b)(3)(B) of the Act and 40 C.F.R. § 70.9, a state must demonstrate to EPA, either by adoption of a "presumptive minimum" fee schedule or of an alternative fee schedule, that it is collecting sufficient fees to implement and enforce its Title V program.

Pursuant to 40 C.F.R. § 70.4(i), EPA must review and approve the state program when the relevant state statutes or regulations are modified or supplemented. We are aware that you have made modifications to your ROP Program since EPA fully approved your program. As noted above, we are also aware that you are contemplating making future modifications to your Title V air emissions fee schedule. Please note that you must submit to EPA for review and approval all past modifications, and any modifications you may make in the future to your currently approved Title V Program, including modifications to your Title V air emissions fee schedule. Based on the program modifications as well as the concerns that have been raised regarding your current fee structure, I am specifically requesting that you submit an updated

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demonstration showing that the Title V fees that Michigan will be collecting under either the current fee schedule or a new fee schedule, as adopted by the Michigan State Legislature, are adequate to fully fund the required Title V Program, in accordance with 40 C.F.R. § 70.9(a) and (b). If MDEQ does not submit acceptable program updates, EPA will consider appropriate next steps, which could include the issuance of a Notice of Program Deficiency pursuant to Section 502(i) of the Act and 40 C.F.R. §70.10(b)(1).

If you have any questions, or if I can be of any assistance, please do not hesitate to contact me.

Sincerely,

Walter W. Kovalick Jr.

Bharat Mathur for
Acting Regional Administrator

cc: G. Vinson Hellwig
Chief, Air Quality Division
Michigan Department of Environmental Quality