



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We make Indiana a cleaner, healthier place to live.

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Bharat Mathur, Director
Air and Radiation Division
Region V
U.S. Environmental Protection Agency
77 W Jackson Blvd.
Chicago, IL 60604

November 15, 2001

Dear Mr. Mathur:

Re: Actions to Address Title V Operating Permit
Program Deficiencies

The purpose of this letter is to respond to yours of October 31, 2001 in which you request that IDEM address certain deficiencies in Indiana's Title V Air Operating Permit Program. These deficiencies, which were listed in the enclosure to your letter, have been identified either by USEPA directly or as a result of public comment, and must be corrected for USEPA to grant full approval of Indiana's permit program.

Staff in IDEM's Office of Air Quality have been working with your staff, interested parties in Indiana, and the Indiana Air Pollution Control Board over the past year to address these issues, some of which have required actual changes to Indiana's rules and others of which have resulted in changes to model permit language or program guidance. As will be described further in this letter and the enclosures, IDEM has taken all necessary steps to correct each of the deficiencies, and we look forward to full and final approval from USEPA.

Many of the issues raised in your letter required amendments to Indiana's air permitting rules. IDEM expeditiously initiated the legal steps required to amend these rules on December 1, 2000 by publishing a notice of our intent to address these issues in the Indiana Register. IDEM provided draft rules for public review on April 1, 2001. We specifically provided copies of the draft rules to the citizens who had commented on our program in response to the December 11, 2000 Federal Register notice. The Air Pollution Control Board adopted proposed rules following a public hearing on June 6, 2001. Final rules were adopted after a second public hearing on October 3, 2001. IDEM and U.S. EPA staff worked closely throughout this time to ensure that the amended rules would satisfy all federal requirements and IDEM has provided your staff with a copy of the rules as they were final adopted by the board. Several administrative steps remain before the rules become effective. These are review by the Indiana Attorney General's office (IDEM's Office of Legal Counsel has carefully reviewed these rules to ensure the Attorney General's review would be straightforward), review and approval by the Governor's office, and filing by the Secretary of State. Rules become effective under law 30 days after filing by the Secretary of State. Assuming the maximum time allowed by law for each of these steps, the effective date is expected to be no later than February 28, 2002.



Enclosure One lists the deficiencies that were identified in your October letter and includes responses on how IDEM has corrected them.

Enclosure Two provides the revised permit language that Indiana will incorporate into Title V Operating Permits to satisfy the deficiencies identified by citizens and EPA. The revised permit conditions will be implemented on December 1, 2001. IDEM will revise other permit conditions as soon as the amended rules become effective.

Enclosure Three is IDEM's protocol for incorporating the provisions of federally-approved permits into Title V Operating Permits. This protocol relies on the newly amended rules and will be implemented upon the effective date of those rules.

I appreciate the cooperative effort of U.S. EPA and IDEM staff who have worked over the past year to ensure that the Indiana Title V Operating Permit program satisfies all federal requirements under 40 CFR 70. I respectfully request that U.S. EPA take expeditious action and complete the federal process of approving these revisions to our program. Both Paul Dubenetzky, Chief of the Permits Branch and I are available to answer any questions you or your staff have regarding this submittal. Mr. Dubenetzky can be reached at (317) 232-8217, and I can be reached at (317) 232-8222.

Sincerely,

/s/

Janet G. McCabe
Assistant Commissioner
Office of Air Quality

JM/PD/SP/enclosures

Enclosure One

Public Comments and IDEM Responses Concerning Non-Regulatory Deficiencies in the Indiana Title V Operating Permit Program

1. Comment: Indiana's Title V model permit language says sources are not required to report as a deviation the failure to perform monitoring unless such failures exceed five percent of the recorded data.

Response: Indiana has removed this provision from the Title V permit model.

2. Comment: Indiana's Title V model permit language excuses monitoring failures if the failures are less than five percent of the recorded data and there was a temporary unavailability of qualified staff to perform the monitoring.

Response: Indiana has removed this provision from the Title V permit model.

3. Comment: Indiana's Title V model permit language does not require sources to begin monitoring immediately after permit issuance.

Response: The model instructions have been revised to clarify that the time frame for implementing new compliance monitoring and record keeping requirements shall be determined by how much time is necessary for the source to install the equipment and begin the monitoring.

4. Comment: Indiana's model permit language for "Actions Related to Noncompliance Demonstrated by a Stack Test" and "General Reporting Requirements" state that documents submitted pursuant to these conditions do not require the certification by the responsible official as defined in 326 IAC 2-7-1(34).

Response: Indiana has revised "Actions Related to Noncompliance Demonstrated by a Stack Test" so that the documents submitted pursuant to that condition require the certification by the responsible official. In October 2000 "General Reporting Requirements" was revised so that the documents submitted pursuant to that condition require the certification by the responsible official.

Public Comment and IDEM Responses Concerning Regulatory Deficiencies in the Indiana Title V Operating Permit Program

5. Comment: Minor permit modifications, which are not subject to public review, qualify for a Title V permit shield under the Indiana Title V regulations.

Response: Indiana adopted changes to the modification rules in 326 IAC 2-7-12 that now require a 30 day public notice period for minor modifications.

6. Comment: The Indiana Title V regulations allow sources to certify compliance with alternative or streamlined limits instead of the original Clean Air Act limit.

Response: Indiana has removed the White Paper II streamlining language from the permit application requirements in 326 IAC 2-7-4 and the permit content requirements in 326 IAC 2-7-5. The section in 326 IAC 2-7-24 for the establishment of streamlined requirements for units subject to multiple requirements has been revised.

7. Comment: The Indiana regulations allow construction permits to automatically be superceded into state operating permits, implying that the construction permits expire.

Response: All permits in Indiana expire in 5 years pursuant to IC 13-15-3-2. The conditions in a construction permit will now expire in accordance with the requirements in 326 IAC 2-1.1-9.5. The new section clarifies that conditions established in a permit issued pursuant to a permitting program approved into the SIP shall remain in effect until the condition is modified in a subsequent permit action, or the emission unit permanently ceases operation. The procedures for doing this have been outlined in Enclosure Three, the Protocol for Incorporating Federally-Enforceable Permits into Title V Operating Permits.

8. Comment: 326 IAC 2-7-5(1)(E) of the Indiana Title V regulations considers exceedance of a permit limit and the corresponding operating parameter to count as only one potential violation.

Response: Indiana has removed 326 IAC 2-7-5(1)(E).

9. Comment: 326 IAC 2-7-5(1)(F) of the Indiana Title V regulations allows emission limit exceedances for startups, shutdowns, and malfunctions to be addressed on a case-by-case basis in Title V permits.

Response: Indiana has removed 326 IAC 2-7-5(1)(F).

10. Comment: 326 IAC 2-1.1-3 of the Indiana regulations establishes unacceptably high emission levels that qualify for an exemption from Title V permit requirements.

Response: 326 IAC 2-1.1-3 has been revised to clarify that the exemptions provided do not apply to Title V permit modifications.

Enclosure Two- Revised Model Conditions to Correct Deficiencies Identified by EPA and Citizens

B.15 Deviations from Permit Requirements and Conditions [326 IAC 2-7-5(3)(C)(ii)]

- (a) Deviations from any permit requirements (for emergencies see Section B - Emergency Provisions), the probable cause of such deviations, and any response steps or preventive measures taken shall be reported to:

Indiana Department of Environmental Management
Compliance Data Section, Office of Air Quality
100 North Senate Avenue, P.O. Box 6015
Indianapolis, Indiana 46206-6015
(and local agency if applicable)

using the attached Quarterly Deviation and Compliance Monitoring Report, or its equivalent. A deviation required to be reported pursuant to an applicable requirement that exists independent of this permit, shall be reported according to the schedule stated in the applicable requirement and does not need to be included in this report.

The Quarterly Deviation and Compliance Monitoring Report does require the certification by the "responsible official" as defined by 326 IAC 2-7-1(34).

- (b) A deviation is an exceedance of a permit limitation or a failure to comply with a requirement of the permit.
- (c) Emergencies shall be included in the Quarterly Deviation and Compliance Monitoring Report.

D.2.5 Parametric Monitoring

The Permittee shall record the total static pressure drop across the **baghouse** used in conjunction with the **woodworking process**, at least once **weekly (or once per shift for non-woodworking facilities)** when the **woodworking process** is in operation when venting to the atmosphere. When for any one reading, the pressure drop across the baghouse is outside the normal range of **3.0 and 6.0** inches of water or a range established during the latest stack test, the Permittee shall take reasonable response steps in accordance with Section C- Compliance Response Plan - Failure to Take Response Steps. A pressure reading that is outside the above mentioned range is not a deviation from this permit. Failure to take response steps in accordance with Section C - Compliance Response Plan - Failure to Take Response Steps, shall be considered a violation of this permit.

The instrument used for determining the pressure shall comply with Section C - Pressure Gauge and Other Instrument Specifications, of this permit, shall be subject to approval by IDEM, OAQ, **(and local agency if applicable)** and shall be calibrated at least once every six (6) months.

C.9 Asbestos Abatement Projects [326 IAC 14-10] [326 IAC 18] [40 CFR 61, Subpart M] **(Mandatory)**

- (a) Notification requirements apply to each owner or operator. If the combined amount of regulated asbestos containing material (RACM) to be stripped, removed or disturbed is at least 260 linear feet on pipes or 160 square feet on other facility components, or at least thirty-five (35) cubic feet on all facility components, then the notification requirements of 326 IAC 14-10-3 are mandatory. All demolition projects require notification whether or not asbestos is present.

- (b) The Permittee shall ensure that a written notification is sent on a form provided by the Commissioner at least ten (10) working days before asbestos stripping or removal work or before demolition begins, per 326 IAC 14-10-3, and shall update such notice as necessary, including, but not limited to the following:
 - (1) When the amount of affected asbestos containing material increases or decreases by at least twenty percent (20%); or
 - (2) If there is a change in the following:
 - (A) Asbestos removal or demolition start date;
 - (B) Removal or demolition contractor; or
 - (C) Waste disposal site.
- (c) The Permittee shall ensure that the notice is postmarked or delivered according to the guidelines set forth in 326 IAC 14-10-3(2).
- (d) The notice to be submitted shall include the information enumerated in 326 IAC 14-10-3(3).

All required notifications shall be submitted to:

Indiana Department of Environmental Management
 Asbestos Section, Office of Air Quality
 100 North Senate Avenue, P.O. Box 6015
 Indianapolis, Indiana 46206-6015
(and local agency if applicable)

The notice shall include a signed certification from the owner or operator that the information provided in this notification is correct and that only Indiana licensed workers and project supervisors will be used to implement the asbestos removal project. The notifications do not require a certification by the "responsible official" as defined by 326 IAC 2-7-1(34).

- (e) **Procedures for Asbestos Emission Control**
 The Permittee shall comply with the applicable emission control procedures in 326 IAC 14-10-4 and 40 CFR 61.145(c). Per 326 IAC 14-10-4, emission control requirements are applicable for any removal or disturbance of RACM greater than three (3) linear feet on pipes or three (3) square feet on any other facility components or a total of at least 0.75 cubic feet on all facility components.
- (f) **Indiana Accredited Asbestos Inspector**
 The Permittee shall comply with 326 IAC 14-10-1(a) that requires the owner or operator, prior to a renovation/demolition, to use an Indiana Accredited Asbestos Inspector to thoroughly inspect the affected portion of the facility for the presence of asbestos. The requirement that the inspector be accredited, pursuant to the provisions of 40 CFR 61, Subpart M, is federally enforceable.

**C.19 Actions Related to Noncompliance Demonstrated by a Stack Test [326 IAC 2-7-5]
 [326 IAC 2-7-6] ***(Mandatory)*****

- (a) When the results of a stack test performed in conformance with Section C - Performance Testing, of this permit exceed the level specified in any condition of this permit, the Permittee shall take appropriate response actions. The Permittee shall submit a

description of these response actions to IDEM, OAQ, within thirty (30) days of receipt of the test results. The Permittee shall take appropriate action to minimize excess emissions from the affected facility while the response actions are being implemented.

- (b) A retest to demonstrate compliance shall be performed within one hundred twenty (120) days of receipt of the original test results. Should the Permittee demonstrate to IDEM, OAQ that retesting in one-hundred and twenty (120) days is not practicable, IDEM, OAQ may extend the retesting deadline.
- (c) IDEM, OAQ reserves the authority to take any actions allowed under law in response to noncompliant stack tests.

The documents submitted pursuant to this condition do require the certification by the "responsible official" as defined by 326 IAC 2-7-1(34).

C.12 Compliance Monitoring [326 IAC 2-7-5(3)] [326 IAC 2-7-6(1)] **(Mandatory)**

Unless otherwise specified in this permit, all monitoring and record keeping requirements not already legally required shall be implemented within **ninety (90) days (insert the timeframe that reflects the actual time necessary to install the equipment and begin the monitoring, this timeframe should be shorter if the source already has the control equipment in place)** of permit issuance. If required by Section D, the Permittee shall be responsible for installing any necessary equipment and initiating any required monitoring related to that equipment. If due to circumstances beyond its control, that equipment cannot be installed and operated within **ninety (90) days**, the Permittee may extend the compliance schedule related to the equipment for an additional ninety (90) days provided the Permittee notifies:

Indiana Department of Environmental Management
Compliance Branch, Office of Air Quality
100 North Senate Avenue, P. O. Box 6015
Indianapolis, Indiana 46206-6015
(and local agency if applicable)

in writing, prior to the end of the initial **ninety (90)** day compliance schedule, with full justification of the reasons for the inability to meet this date.

The notification which shall be submitted by the Permittee does require the certification by the "responsible official" as defined by 326 IAC 2-7-1(34).

Unless otherwise specified in the approval for the new emission unit(s), compliance monitoring for new emission units or emission units added through a source modification shall be implemented when operation begins.

C.18 Compliance Response Plan - Failure to Take Response Steps [326 IAC 2-7-5] [326 IAC 2-7-6]

- (a) The Permittee is required to prepare a Compliance Response Plan (CRP) for each compliance monitoring condition of this permit. A CRP shall be submitted to IDEM, OAQ (**and local agency if applicable**) upon request. The CRP shall be prepared within ninety (90) days after issuance of this permit by the Permittee, supplemented from time to time by the Permittee, maintained on site, and comprised of:
- (1) Reasonable response steps that may be implemented in the event that a response step is needed pursuant to the requirements of Section D of this permit; and an expected timeframe for taking reasonable response steps.
 - (2) If, at any time, the Permittee takes reasonable response steps that are not set forth in the Permittee's current Compliance Response Plan and the Permittee documents such response in accordance with subsection (e) below, the Permittee shall amend its Compliance Response Plan to include such response steps taken.
- (b) For each compliance monitoring condition of this permit, reasonable response steps shall be taken when indicated by the provisions of that compliance monitoring condition as follows:
- (1) Reasonable response steps shall be taken as set forth in the Permittee's current Compliance Response Plan; or
 - (2) If none of the reasonable response steps listed in the Compliance Response Plan is applicable or responsive to the excursion, the Permittee shall devise and implement additional response steps as expeditiously as practical. Taking such additional response steps shall not be considered a deviation from this permit so long as the Permittee documents such response steps in accordance with this condition.
 - (3) If the Permittee determines that additional response steps would necessitate that the emissions unit or control device be shut down, the IDEM, OAQ shall be promptly notified of the expected date of the shut down, the status of the applicable compliance monitoring parameter with respect to normal, and the results of the actions taken up to the time of notification.
 - (4) Failure to take reasonable response steps shall constitute a violation of the permit.
- (c) The Permittee is not required to take any further response steps for any of the following reasons:
- (1) A false reading occurs due to the malfunction of the monitoring equipment and prompt action was taken to correct the monitoring equipment.
 - (2) The Permittee has determined that the compliance monitoring parameters established in the permit conditions are technically inappropriate, has previously submitted a request for an administrative amendment to the permit, and such request has not been denied.
 - (3) An automatic measurement was taken when the process was not operating.

- (4) The process has already returned or is returning to operating within “normal” parameters and no response steps are required.
- (d) When implementing reasonable steps in response to a compliance monitoring condition, if the Permittee determines that an exceedance of an emission limitation has occurred, the Permittee shall report such deviations pursuant to Section B-Deviations from Permit Requirements and Conditions.
- (e) The Permittee shall record all instances when response steps are taken. In the event of an emergency, the provisions of 326 IAC 2-7-16 (Emergency Provisions) requiring prompt corrective action to mitigate emissions shall prevail.
- (f) Except as otherwise provided by a rule or provided specifically in Section D, all monitoring as required in Section D shall be performed when the emission unit is operating, except for time necessary to perform quality assurance and maintenance activities.

SECTION D.6

FACILITY OPERATION CONDITIONS

Facility Description [326 IAC 2-7-5(15)]: *The following are three examples of conditions that could apply to insignificant activities. Note that compliance monitoring requirements will apply to insignificant activities that have applicable requirements, and:*

- ***a NSPS or NESHAP applies; or***
- ***there is a control device and the allowable emissions for the controlled pollutant exceed 10 lb/hr; or***
- ***there is no control device and the actual emissions exceed 25 tons/year; or***
- ***a condition limiting the PTE is the only thing keeping the unit out of an applicable requirement (there may be very small and simple units that would not need compliance monitoring even if there is a limit on PTE).***

(The information describing the process contained in this facility description box is descriptive information and does not constitute enforceable conditions.)

Enclosure Three

Protocol for Incorporating Federally-Approved Permits into Title V Operating Permits

I. Scope

This protocol describes the procedures to be used by the Indiana Department of Environmental Management (IDEM) when incorporating the provisions of previously issued permits into Title V Operating Permits and for combining new source review permits with Title V Operating Permits. These permits include all those approved under 40 CFR 51 or 40 CFR 70 and those issued under 40 CFR 52 or Title V of the Clean Air Act, and the corresponding Indiana rules. Individual provisions of previously issued permits may be incorporated as originally stated, revised, or deleted as described by these procedures. Indiana may supercede previously issued permits in whole or in part under these procedures.

II. Terms

In the situations covered in the Scope section, above, IDEM will issue Title V permits in accordance with the following:

A. Permit Language Requirements the following are permit language requirements which will indicate a combined permit, show the authority for such conditions, identify non-applicable conditions, and supersede previous permits.

1. Combined NSR/Title V permits state that the combined permit serves as both a Title V and a NSR permit (specifying minor NSR, major NSR, or PSD as appropriate).
2. For each new NSR permit term or condition, or revised permit term or condition originally issued under any permit issued pursuant to a permitting program approved into the Indiana-SIP, IDEM will indicate in the Title V permit under which program the term or condition was issued. Revisions to conditions, the authority for which exists outside of a permitting program, will not be identified unless requested by the source.
3. IDEM will identify, in the TV permit and corresponding Technical Support Document (TSD), any previously established applicable requirements that will be deleted and the basis for the deletions.
4. Pursuant to 326 IAC 2-1.1-9.5 Title V permits will indicate that:
 - a. Except as provided in IC 13-15-3-6(a), permits are effective for a term not to exceed five (5) years.
 - b. Any condition established in a permit issued pursuant to a permitting program approved into the Indiana-SIP shall remain in effect until:
 - (1) the condition is modified in a subsequent permit action; or
 - (2) the emission unit to which the condition pertains permanently ceases operation.

- B. Process Requirements** the following process steps will be taken with every combined permit.
1. The issuance, renewal or revision of terms and conditions in combined NSR/Title V permits must satisfy the substantive and procedural requirements of 40 CFR 52, Title V, corresponding state law, and the Indiana-SIP, as applicable.
 2. The public notice shall state that both a Title V and a NSR action are occurring simultaneously. A TSD will accompany the NSR/Title V permit at public notice. The TSD will state that the Title V permit serves as the Title V and the NSR permit. It also will state that the Title V permit may include new or revised conditions from previous permits issued pursuant to a permitting program approved into the Indiana-SIP.
 3. IDEM's use of a combined permit shall not affect the ability of any person to appeal a PSD permit to EPA's Environmental Appeals Board (EAB) in accordance with 40 C.F.R. Part 124. Appeal to the EAB of a PSD permitting action may result in a stay of the effectiveness of the permit for purposes of Title I. Appeal of the permit, for purposes of Title I, and review and objection of the permit for purposes of Title V, shall follow the procedures at 40 C.F.R. Part 124, IC 13-15-6 appeal of agency issue or deny permit, and 40 C.F.R. Part 70, respectively.