



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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OCT 30 2006

REPLY TO THE ATTENTION OF: (AR-18J)

Laurel Kroack, Chief
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, Illinois 62794-9276

Dear Ms. Kroack:

A handwritten signature in cursive script that reads "Laurel".

I am pleased to transmit to you the final report of the Title V operating permit program evaluation that took place between August 18, 2004 and August 20, 2004. Several representatives of the United States Environmental Protection Agency (USEPA) met with the Illinois Environmental Protection Agency (IEPA) managers and staff. This meeting was part of USEPA's initiative to evaluate States' permit program implementation, note practices that could be helpful to other permitting authorities, document areas needing improvement, and learn how USEPA can help to attain these improvements.

As part of our evaluation we were to identify program strengths and those areas needing improvement. Among the strengths are: good permit organization; incentives for staff performance (paid overtime and tuition reimbursement); and the availability of information to the public on-line. These and other issues are discussed in more detail in this report. Upon your review of our program evaluation, we would like to work with you to develop an action plan on any program improvements you have made or intend to make as part of our evaluation of your program.

I hope you find this exercise as useful as we have; we look forward to working with you to develop an action plan. If you have any questions, please contact Pamela Blakley, of my staff, at (312) 886-4447.

Sincerely yours,

A handwritten signature in cursive script that reads "Stephen Rothblatt".

Stephen Rothblatt, Director
Air and Radiation Division

Enclosures

cc: Don Sutton, IEPA

Review of Illinois' Title V Operating Permit Program

Illinois Environmental Protection Agency

August 2004

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2004 Review of Illinois' Title V Operating Permit Program

I. Executive Summary

In 2004, the United States Environmental Protection Agency (USEPA), Region 5, conducted an evaluation of the Illinois Environmental Protection Agency's (IEPA) Title V operating permit program. This evaluation is part of USEPA's ongoing Title V program oversight of state and local permit programs.

Overall, USEPA found IEPA's program strengths to include good permit organization, ability to provide financial incentives to staff for successful performance, and availability of permit information on the internet. Areas found to be in need of improvement include: adequacy of periodic monitoring in permits, statement of basis, non-applicability determinations (permit shields) in permits, availability and adequacy of written responses to public comments; required submittal of information to constitute complete applications for renewal permits; severability of permits during the appeals process; implementation issues regarding the Title I / Title V streamlining agreement; and outstanding initial Title V permits and synthetic minor permits to major sources.

USEPA believes that IEPA should examine its Title V program and prioritize resolution of the issues identified in this report. These priorities should include expediting issuance of synthetic minor permits to major sources and improving the quality of the statement of basis for remaining initial and renewal permits. This report recommends that IEPA submit an action plan to notify USEPA of program improvements, including those improvements that have been accomplished since 2004 and that are planned for the future, as discussed in Section VI of this report. It also affirms USEPA's willingness and intent to work with IEPA toward resolutions to the identified issues.

It is worth noting that IEPA has taken considerable action prior to issuance of this report, and IEPA and USEPA have been in communication about the issues addressed in this report, as reflected in Section V. Addressing the areas needing improvement, which are identified in this report, will strengthen and improve the implementation of certain components of the IEPA program. This report recommends a corrective action plan that addresses all findings (see attachment 2). IEPA has stated it is, and will continue to be, devoted to proper implementation of its program and to work with USEPA in the future to improve the program in a manner that achieves the goals of the Clean Air Act (CAA) and the Illinois Environmental Protection Act.

II. Introduction/Audit Program

In 2003, as part of its oversight role, USEPA began a four-year initiative to review the implementation of the Title V and NSR permit programs by permitting authorities throughout the country. USEPA developed two standard program evaluation protocols in the form of questionnaires, one addressing Title V and one addressing NSR, for Regional offices to use to conduct a consistent review of all of the permitting authorities. The program review questionnaires consist of two components: questions about program implementation and criteria for a file review. The purpose of the program evaluation was to meet with each permitting authority to evaluate its implementation of the permitting programs, note practices that could be helpful to other permitting authorities, document areas needing improvement, and learn how USEPA can help the permitting authorities and further improve the national programs.

On August 18 - 20, 2004, USEPA staff visited the IEPA offices in Springfield, Illinois. Prior to this visit, USEPA met with IEPA management and staff by conference call to discuss the questionnaire provided. During the visit, the questionnaire was discussed in more detail and a file review was performed according to the criteria in the questionnaire. The results of these discussions, and follow up exchange of e-mailed revisions, are in Attachment 1.

This final report summarizes findings and conclusions of USEPA from its review of the Title V program of IEPA. The findings and conclusions in the report are based on the answers IEPA gave to the questionnaire, the file review, and USEPA staff knowledge of the program from experience with reviewing IEPA permits. This information was compared to the statutory and regulatory requirements for federal permitting programs as outlined in the questionnaire.

III. Program Description – Clean Air Act Permit Program (CAAPP)

IEPA's permitting rule, 35 IAC Part 201, contains the state program established to meet the requirements of 40 CFR Part 70. The program is called the Clean Air Act Permit Program (CAAPP). The underlying statutory authority for this rule is found in Chapter 39 of the Illinois Environmental Protection Act (415 ILCS 5/39.5). IEPA's most recent submittal of information to support final full approval of its Title V operating permits program occurred on May 31, 2001; USEPA gave final full approval of Illinois' operating permit program on December 4, 2001.

The central office of Illinois EPA, located in Springfield, Illinois, is responsible for the drafting and issuance of Title V permits. Staff at the central office is also responsible for review of all periodic, malfunction, and compliance reporting; observation of stack testing or Continuous Emission Monitor (CEM) certifications; review of all reports resulting from compliance demonstrations; and development of enforcement actions where appropriate. IEPA has 11 field offices located throughout the state, whose primary responsibilities are inspection of regulated sources and response to citizen complaints.

IV. Findings

A. Program Strengths

1. Good Permit Organization

During the file review portion of the program evaluation, USEPA reviewed different types of permits, including those with: Maximum Achievable Control Technology (MACT) limits, Best Available Control Technology limits, Compliance Assurance Monitoring (CAM) requirements, a synthetic minor permit, and a permit which generated public comments. USEPA found that IEPA's permits are well-organized, listing individual emission units or groups of emission units in separate sections of the permit. All requirements for each emissions unit (or group of similar emission units) are contained in its own section of the permit. Other requirements, such as a list of the significant emission units at the facility, requirements for insignificant emissions units, facility-wide requirements, and trading program requirements, are included in their own sections of the permit. For readability, and for compliance certification purposes, this structure is conducive to a clear understanding of the requirements applicable to each significant emissions unit. Appendix A contains a typical permit issued by IEPA.

2.. Incentives for staff performance

IEPA faces budgeting concerns and staffing issues, similar to many other state agencies across the nation. This situation is prevalent despite the fact that Title V programs are intended to be independently self-funded, because of blanket, state-wide human resource policies established by state governments during times of revenue shortfalls. The IEPA Title V program, however, has been able to offer financial compensation to employees on an incentive basis, above the basic salaries, in two ways. The first financial incentive, paid overtime, has been offered to employees for Title V permitting work to increase the number of Title V permit actions taken by IEPA. The second is the ability to offer employees tuition reimbursement, which has been helpful in attracting and retaining high quality employees.

3. Availability of information to the public

IEPA provides most Title V permit documents electronically to USEPA in a database, with the understanding that those documents will be placed on the USEPA website. In addition to the draft, proposed, and final Title V permits; modifications; and statements of basis, IEPA also provides documents such as public notices and public hearing transcripts once they are compiled. Having these documents readily available on-line provides the public with easy access to much of the information they need to participate in the Title V permit issuance process.

B. Areas Needing Improvement

During the course of this review, USEPA identified several ways in which the IEPA Title V program needs improvement when compared to the requirements of 40 C.F.R. § Part 70. Although some of these issues have been previously discussed with USEPA Region 5, and IEPA has taken steps in an attempt to resolve some of them, all areas identified during the program review as needing improvement are presented here collectively. This is done in order to present a clear, concise summary of USEPA regulations and policy on each of the issues, in light of the program evaluation questionnaire and permit review activities. Also, this report represents an opportunity to affirm the need for, and to present recommendations for, resolution on each individual issue.

1. Periodic Monitoring

Title V permits are intended to contain monitoring provisions to assure compliance with the applicable requirements included in the permit. The federal requirements for periodic monitoring in Title V permits can be found in 40 C.F.R. § 70.6(a)(3)(i)(B), which requires the following permit content:

“Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit, as reported pursuant to paragraph (a)(3)(iii) of this section. Such monitoring shall assure the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Record keeping provisions may be sufficient to meet the requirements of this paragraph (a)(3)(i)(B) of this section...”

Terms developed under this periodic monitoring authority must meet the compliance assurance requirements contained in 40 C.F.R. § 70.6(c)(1), which requires that permits contain: “Consistent with paragraph (a)(3) of this section, compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit.”

The Illinois statute contains periodic monitoring requirements for Title V permits, in (415 ILCS 5/39.5(7)(d)(ii)), which are similar to the federal requirements:

“Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), require periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source’s compliance with the permit, as reported pursuant to paragraph (f) of this subsection. The Agency may

determine that recordkeeping requirements are sufficient to meet the requirements of this subparagraph.”

The Illinois statute also contains provisions in (415 ILCS 5/39.5(7)(p)(i)), which correspond to the federal requirements of 40 C.F.R. § 70.6(c)(1).

In response to questions C.1 and C.3 in the program questionnaire (see Attachment 1) IEPA states that the decision to include monitoring in a permit, when none is provided in the underlying applicable requirement, is a case-by-case one left to the individual permit writer. Based upon review of IEPA permits, monitoring provisions (instrumental or non-instrumental measurements) are not typically established in IEPA Title V permits, although many permits contain record keeping requirements designed to serve as monitoring. During 2004, USEPA reviewed and commented on 32 CAAPP permits. Of those permits, 24 received comments for lack of adequate periodic monitoring. As a result of this permit review, and based upon the answers given in the program review questionnaire, IEPA permits do not consistently meet the periodic requirements of both 40 C.F.R. Part 70 and the Illinois statute. The following paragraphs reflect individual periodic monitoring comments that have been transmitted by USEPA to IEPA.

Limits with no periodic monitoring requirements

Situations exist in which IEPA has found that no periodic monitoring is necessary to assure compliance with a limit. In some cases, these were emission units subject to applicable requirements for which there is no chance a violation will occur. One example of this could be a boiler which only uses natural gas as a fuel and is subject to a 30% opacity limit; another possible example is an emissions unit with potential to emit below the emissions limitation to which it is subject. However, if IEPA determines that it is not possible for a unit to violate a limit for reasons like this, the rationale for the decision - the potential to emit calculations or analysis - must be discussed in the statement of basis. (This is further discussed in section IV.B.2. Also, see comments on Panhandle Eastern renewal permit, sent 7/7/04.) Currently, the IEPA statement of basis typically does not contain such a rationale, and this calls into question whether or not the permit meets the requirements of 40 C.F.R. § 70.6(a)(3) and 415 ILCS 5/39.5(7)(d).

Record keeping which may serve as monitoring requirements

Additionally, IEPA has determined that monitoring other than record keeping may not be necessary to assure compliance with certain applicable requirements. USEPA has agreed that some applicable requirements are expressed in terms for which records are a direct method of compliance monitoring, consistent with the applicable requirement, and record keeping may be sufficient to meet the monitoring requirements of 40 C.F.R. § 70.6. Examples of these requirements include: limits on throughputs of raw materials, limits on hours of operation, and requirements to perform maintenance inspections of an emission unit. USEPA has issued comments to IEPA that reflect the understanding that for requirements like these, record keeping yields reliable data that assures compliance. (See

comments on Edsal Manufacturing, sent May 2004).

However, there is no “one size fits all” method of establishing periodic monitoring in Title V permits. Within the context of Illinois permits reviewed by USEPA, the practice of using record keeping to serve as periodic monitoring has not always been sufficient to yield reliable data from the relevant time period that are representative of the source’s compliance with the permit, as required by 40 C.F.R. § 70.6. USEPA has commented that, for mass emission limitations, control efficiency requirements, opacity limitations, or other similar limits, compliance cannot be directly demonstrated with a record. For this type of limit, for which there is potential for a violation, the permitting authority must include some periodic monitoring in the Title V permit. Where this periodic monitoring was not provided in the underlying applicable requirement, USEPA asked IEPA to establish it in the Title V permit, according to 40 CFR 70.6(a)(3)(i)(B). This includes requirements for measurements to be taken using appropriate methodology, at a frequency that is appropriate given the relevant time period of the limitation and other factors specific to the emissions unit (for example, margin of compliance or magnitude of emissions). (See comments on Sleepeck Printing, sent 4/21/04.)

Additional explanation of periodic monitoring issues with respect to IEPA Title V permits is available in some of the comments on previous permits. USEPA has also worked with assigned IEPA staff to assist in development of periodic monitoring methods for Illinois, and has sent examples used by other states in Region 5 for this purpose. If further information or assistance is needed, USEPA is willing to help IEPA to develop ways to routinely incorporate periodic monitoring into Title V permits where it is needed, as discussed further in the recommendations section of this report.

2. Statement of basis

The permitting authority must issue with each draft permit s statement of basis, which explains the legal and factual basis for the terms in the permit. The federal requirement for a statement of basis can be found in 40 C.F.R. § 70.7(a)(5):

“The permitting authority shall provide a statement that sets forth the legal and factual basis for the draft permit conditions (including references to the applicable statutory or regulatory provisions). The permitting authority shall send this statement to EPA and to any other person who requests it.”

The Illinois statute contains a similar requirement in (415 ILCS 5/39.5(8)(b)):

“The Agency shall prepare a draft ... permit and a statement that sets forth the legal and factual basis for the draft ... permit conditions, including references to the applicable statutory or regulatory provisions. The Agency shall provide this statement to any person who requests it.”

In addition to the language of 40 C.F.R. § 70.7(a)(5), USEPA has provided explanation of the purpose of a statement of basis in guidance documents, letters and memos, and in Title V permit petition responses. These documents have reinforced the idea that a statement of basis is not a summary of a permit; it should contain information not found in the permit, which explains the decisions made by the permitting authority in developing the permit and allows review of those decisions by USEPA and the public. One example of such an explanation can be found in a Title V permit petition response, issued September 30, 2003 (Consolidated Edison Company (II-2001-08) pp. 39-45):

“It should highlight elements that EPA and the public would find important to review. Rather than restating the permit, it should list anything that deviates from simply a straight recitation of requirements. The statement of basis should highlight items such as the permit shield, streamlined conditions, or any monitoring requirements that are not otherwise required or are intended to fill in monitoring gaps in existing rules, especially the SIP rules. Thus, it should include a discussion of decision-making that went into the development of the Title V permit and provide the permitting authority, the public, and EPA with a record of the applicability and technical issues surrounding the issuance of the permit.”

IEPA issues a document called a project summary with each draft Title V permit, which is intended to fulfill the requirement for a statement of basis. IEPA provides its permit writers with template language, which contains instructions and sample language to be used by the permit writer to develop a project summary. At the time of the site visit to IEPA for this program review, the project summaries were almost entirely composed of general language, with very little information specific to the facility. It is noted here that IEPA has added a significant amount of information to its project summaries since that time. Currently, typical project summaries include both general and site-specific information. At the time of the visit to Springfield in 2004, the following general information was present in every project summary and is not specific to the permitted facility:

- description of the IEPA Title V program and the general contents of a Title V permit;
- general summary of IEPA’s Title I/Title V streamlining agreement;
- general description of the public comment process;
- a brief summary of the following programs: CAM, ERMS, fugitive particulate matter operating program, RMP, EAP, PM10 Contingency Plan Measures.

Since that time, some information has been added to IEPA’s project summaries; this is discussed further in section V of this report.

IEPA’s responses to items A.9a and A.9b of the evaluation questionnaire, regarding monitoring decisions or applicability determinations, indicate that information is missing from the project summaries. The projects summaries do not adequately discuss the decision-making that went into

the development of the Title V permit. Specific information required, but not present, in IEPA project summaries includes: the rationale for any non-applicability determinations present in the permit; the basis for review of the facility's compliance status; the rationale for periodic monitoring provisions (or lack thereof) established in the permit; and an explanation of any Title I actions taken in the Title V permit. The following summaries describe information which may be required to provide a rationale in support each of these types of determinations in a permit.

Rationale for Non-Applicability Determinations

IEPA staff have maintained that a simple statement by the Title V applicant in its application that a potentially applicable requirement does not apply is a sufficient legal and factual basis for a non-applicability determination; USEPA disagrees. Section 504(f)(2) of the CAA, 42 U.S.C. § 7661c(f)(2), and 40 C.F.R. § 70.6(f) provide that, to make a determination that a provision does not apply to a source, the permit must contain a reference to the provision and the determination or a concise summary thereof. USEPA believes that IEPA must make a non-applicability determination based upon review of sufficient supporting documentation, and that IEPA must include a summary of this review in the statement of basis. This documentation should include the applicability criteria that were considered, and the factual bases upon which IEPA relied to determine that the criteria have not been met.

An example of a comment sent to IEPA by USEPA regarding the need to place the rationale for non-applicability determinations in a statement of basis is included in Appendix B. In some cases, a non-applicability determination is based upon a simple, easily verifiable design limitation of the emissions unit, and the basis for the determination is included in the permit. (For example, an emissions unit may not be subject to CAM because it has no add-on control device.) In other cases, the language in the permit does not provide a sufficient legal and factual basis for a determination of non-applicability (for example, when an emissions unit is not subject to CAM because its pre-control potential to emit is less than the major source thresholds.) In these cases, USEPA has commented that the permittee's statement that the regulation does not apply is not a sufficient basis for a permit shield to be placed in the permit. An applicant must submit sufficient information (for example, the potential to emit analysis) so that IEPA can review the information in order to determine that a permit shield may or may not be granted. IEPA must document in detail the basis for its conclusion in the statement of basis.

Determination of whether or not a compliance schedule is required in the permit

Regarding compliance status, current project summaries contain the following type of statement: "The source has certified compliance with all applicable rules and regulations; therefore, a compliance schedule is not required for this source." 40 C.F.R. § 70.5(a) requires an applicant to include a compliance schedule in the permit application for any source which is not in compliance with all applicable requirements. In order to issue the permit, IEPA must review the application and determine if it is complete, which would include reviewing the need for such a compliance schedule. A compliance determination for the purpose of issuing a permit does not require the type of thorough compliance evaluation that is appropriate in an enforcement setting. However, it is

important that a permit writer review all readily available information to ensure that the source has no ongoing compliance issues, and that the certification is accurate. In cases where the source certifies compliance, the permit writer should verify, at a minimum:

- whether or not the source is currently operating under any consent decrees or orders;
- whether or not a notice of violation has been issued to the source by either IEPA or USEPA, for ongoing violations;
- the date of the most recent inspection of the source by IEPA and the conclusions of any inspection report available in the file.

IEPA's response to question A.3 of the questionnaire in Attachment 1 indicates that this type of review occurs now. However, this information is not provided in the statement of basis. This type of review, when documented in a statement of basis, could provide a sufficient rationale for review and acceptance of a certification of compliance.

Rationale for periodic monitoring strategy

As discussed in section IV.B.1, Title V permits must contain periodic monitoring to assure compliance with applicable requirements. When no periodic monitoring exists in an underlying applicable requirement, the permit writer must develop monitoring which meets the requirements of 40 C.F.R. § 70.6(a)(3)(i)(B) and (c)(1), in terms of being sufficient to assure compliance. Determining appropriate monitoring requires the use of discretion and judgment on the part of the permit writer. This determination includes, at a minimum, the following decisions: the methods by which the permittee should monitor emissions; how frequently the measurement should be taken; and if the measurements are indirect (parametric), how the measured values relate to actual emissions from the source. In any case, whether the permit writer decides that no monitoring is required to assure compliance with a limit, record keeping may serve as monitoring to assure compliance, or periodic monitoring is established in the permit, the permitting authority must place the rationale for this decision in the statement of basis. The basis for the determination that the selected monitoring strategy complies with the requirements of 40 CFR § 70.6 must be included in this rationale. This is further discussed in section IV.B.2.

Title I/Title V actions

Finally, a unique aspect of IEPA's Title V program is the streamlining of Title I/Title V permitting actions. The specifics of this agreement are discussed in section IV.B.8 of this report. Essentially, it allows IEPA to take Title I actions in conjunction with Title V actions in situations where a previously established Title I requirement is to be deleted or revised, or a new one is to be created. The agreement specifies that the joint Title I/Title V action must meet all requirements of both Title I and Title V. In order to allow effective review of these actions, the rationale and factual basis for the Title I permitting actions should be included in the statement of basis. For example, when a synthetic minor limit previously established in a construction permit is modified as a revised Title I term in a Title V permit, that action should be explained in the statement of basis. It should be made clear what was required in the previous construction permit, and whether or not a relaxation of that

limit is occurring. This is just one example of the type of rationale that might be required in a statement of basis for a streamlined Title I action. Another example is that the statement of basis should identify any Title I terms that are deleted, with an explanation of why they were deleted.

In addition to the four decisions listed above, for which the rationale and legal and factual basis should be included in the statement of basis, IEPA is encouraged to examine its permitting process to identify additional decisions that are made on a permit by permit basis. The rationale for any such decisions made in the Title V process should also be placed in the statement of basis, as part of the permit record.

3. Non-applicability determinations (permit shields)

The Title V permit program provides an opportunity for an applicant to request a permit shield, based upon incorporation of an applicable requirement into the permit or of a determination that an otherwise potentially applicable requirement may not apply. The federal requirements for Title V operating permit programs include the following requirements for permit shields in 40 C.F.R. § 70.6(f)(1):

“Except as provided in this part, the permitting authority may expressly include in a part 70 permit a provision stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance, provided that:

- (i) Such applicable requirements are included and are specifically identified in the permit; or
- (ii) The permitting authority, in acting on the permit application or revision, determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes the determination or a concise summary thereof.”

The Illinois statutory permit shield provisions are found in 415 ILCS 5/39.5(7)(j) of the Illinois Environmental Protection Act:

- “
- (i.) the Agency shall include in a CAAPP permit, when requested by an applicant pursuant to paragraph 5(p) of this Section, a provision stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements which are applicable as of the date of release of the proposed permit, provided that:
 - A. The applicable requirement is specifically identified within the permit; or
 - B. The Agency in acting on the CAAPP application or revision determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes that determination or a concise summary thereof.”

During review of Illinois permits, USEPA has noted concerns about the placement of non-

applicability determinations in Title V permits. Although the placement of such a determination is certainly allowed, USEPA comments relate to how IEPA has implemented this provision. In addition to the concerns noted in section IV.B.2 with respect to lack of a rationale for approval of a permit shield in the statement of basis, there is an additional concerns about IEPA's implementation of the permit shield provisions: the applicant must provide sufficient information to support the determination.

Appendix C contains White Paper II, which discusses on page 36 the requirement for any applicant to submit information to support a non-applicability determination as part of a permit application, when a permit shield is requested. Currently, IEPA permit application forms fail to provide opportunity for applicants to provide certain relevant information commonly required to support non-applicability determinations - for example, potential to emit calculations. As part of the application, this information must be certified for truth and accuracy by the responsible official. Furthermore, this information must be available as part of the rationale for IEPA's approval of such requests, to allow for review and comment by USEPA and the public.

4. Lack of written response to comments

The Title V permitting process requires an opportunity for any interested party to comment on a draft permit; the specific public comment procedures will vary slightly, depending upon state requirements. 40 C.F.R. § 70.7(h) contains the federal public participation requirements for Title V permits; the parallel requirements for the State of Illinois are found in (415 ILCS 5/39.5(8)). Both include requirements for IEPA to provide opportunity for public comment on draft Title V permits. Specific details of the public participation process are addressed in section D of the questionnaire in Attachment 1. IEPA does not routinely provide an adequate written response to public comments. For permits which require public hearings a responsiveness summary may be prepared, but the summaries are not always available to the public prior to issuance of the final permits or prior to the deadline for submitting a petition to object to USEPA.

This issue has been raised in a Title V permit petition; lack of a written response to all significant public comments is a concern. In order to avoid any future administrative burden of fixing problems in a final permit, both agencies should work together to develop and implement a procedure to respond to all significant public comments in writing. Additionally, all USEPA comments on permits should be resolved prior to final issuance, which may include written responses if appropriate.

5. Renewal permit applications

Nearly all of the Title V sources in Illinois have received an initial permit. These permits are issued for a term of five years; prior to expiration, the permitted facility must apply for a renewal permit. 40 C.F.R. § 70.5, which contains the requirements for Title V permit applications, does not contemplate different application requirements for renewal permits than for initial permits. The state

requirements for Illinois Title V permit applications are found in the Illinois Environmental Protection Act, 39.5(5), in 35 IAC Section 201 Subpart F, and in the application forms themselves. As IEPA explained in response to question E.16 of Attachment 1, the same application form is used for initial and renewal Title V permits. Instructions and the application form (200-CAAPP) for renewal of Title V permits are available on the IEPA website, and can be found in Appendix D.

According to the instructions, an applicant for a renewal permit is not required to submit a complete, updated version of its initial application. Rather, the applicant is required to submit only the pages of the permit application that contain information which has changed since submittal of the initial permit application. For the remainder of the application, the previous application can simply be incorporated by reference. The responsible official may certify the truth and accuracy of the updated forms, in addition to a general reference to the previously submitted forms, and IEPA considers this to be a complete application for a renewal permit.

A complete application is required for a renewal Title V permit. However, it is reasonable for IEPA to allow references to publicly available documents in a permit application. If the references are clear and unambiguous, they result in a complete permit application that is certified for truth and accuracy by a responsible official, and the materials referenced are readily available for review by the public, then the process of allowing references to prior permit application submittals may be allowable.

For all documents incorporated by reference, those references must be clear and unambiguous in the renewal permit application in order for the application to be complete. Item 7a in the instructions directs the renewal applicant to mark yes on form 200-CAAPP if existing information is being incorporated by reference. Form 200-CAAPP lacks an opportunity for the applicant to list existing information that is being incorporated by reference, and the instructions contain no direction to the applicant to provide such a listing. Therefore, this form currently does not require or provide an opportunity for the applicant to reference previously submitted materials in a clear and unambiguous manner. As a result, renewal permits may be issued based upon incomplete or outdated information in renewal applications, or information in the permit record may be insufficiently available for review by the public.

6. Severability of permits during the Appeals process

Occasionally, Title V permits are appealed to the Illinois Pollution Control Board (IPCB) after the final issuance. During this process, the party who appeals the permit has the right to request that the IPCB stay the effectiveness of the permit until the appeal is resolved. The Title V program requires that, during an appeal, the portions of the permit which are not subject to the appeal remain effective.

The federal requirements for content of a Title V permit are contained in 40 C.F.R. § 70.6; section 70.6(a)(5) contains a requirement for a permit to contain a severability clause. The Illinois statute contains a nearly identical provision at 415 ILCS 5/39.5(7)(i), intended to ensure the severability of the permits: “(i) Each CAAPP permit issued under subsection 10 of this Section shall include a

severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.” Illinois permits contain this provision in an attempt to ensure the conditions of the permit are severable.

Both the federal and state requirements require, during a possible stay granted during an appeals process, the preservation of non-challenged portions of a Title V permit. However, Illinois permits, when appealed, are frequently stayed in their entirety during the appeals process. Appendix E contains examples (not a comprehensive list) of recent IPCB appeals for which severability of the appealed permit was not maintained. In each of these cases, a motion for an entire stay of the permit by the petitioner went unanswered by IEPA, and was granted by the IPCB.

It has been noted and discussed during monthly program conference calls with USEPA that IEPA rarely offers a defense to a permit appeal when a facility appeals its permit and requests a stay. In effect, it appears that IEPA has not taken steps to implement its severability clause in the permits. As a result of these entire stays, none of the compliance assurance provisions created in the permit apply during the stay, including monitoring, reporting, or compliance certification requirements. A stay of a permit delays the effectiveness of the Title V permit, as if it had not been issued at all, and results in failure to meet the state and federal requirements for severability.

7. Implementation issues regarding the Title I / Title V streamlining agreement

In February 2000, IEPA and USEPA signed an implementation agreement to allow streamlined permits to be issued in a single permitting action, under the separate authorities of Title V and the Title I (major and minor New Source Review (NSR)) programs. This agreement is included in Appendix F. The implementation agreement outlines the criteria for when the streamlined process may be used, and the process to be followed for issuance of combined Title I and Title V permits. The streamlined permitting process is to be used to correct situations where a source should have obtained a Title I permit prior to construction and did not, or where a source wants to make revisions to a Title I permit condition that will be reflected in its Title V permit. The implementation agreement includes required permit language for combined permits, required notation to identify new or revised Title I terms, required measures to ensure the continued validity of Title I conditions upon expiration of the Title V portion of the combined permit, and process requirements regarding the issuance of combined permits.

A key issue with respect to implementation of this agreement is providing adequate public notice of the Title I actions taken in the permit. At the time of the visit to IEPA, USEPA was concerned that every Title V permit was labeled as a combined permit, and that the public notice for each permit did not specify whether the permit contained a Title I action, or was simply a Title V permit. Because the permit and public notice language required by the agreement is intended to notify the public when a Title I action is being taken, it is essential that the language only be used when a Title I action is being taken. Otherwise, if every Title V permit is labeled as a combined permit whether it contains a Title I action or not, the public is not being effectively notified of Title I actions.

Additionally, all public notices for Title V permits contain the following language, "...permits may contain new and revised conditions established under permit programs for new and modified emission units, pursuant to Title I of the federal Clean Air Act, thereby making them combined Title I and Title V permits." The public notice issue is of concern, because the permit is not labeled as either a streamlined permit or a Title V permit. A footnote on the cover of the permit refers the reader to specific portions of the permit which will then indicate whether the permit is combined or not; a citizen is required to obtain a copy of the permit and look at individual terms to determine whether a Title I action is being taken. This does not serve as public notice of a Title I action. When developing the public notice for a permit, IEPA must include notice of a Title I action in the public notice if it has taken one, or make clear that the permit action is solely a Title V action.

Additionally, although the implementation agreement is effective in outlining procedures for initial combined Title I / Title V permits, it is silent on renewals. It is important to realize that newly established or revised Title I terms in a combined Title I/Title V permit should be labeled differently than they are labeled in subsequent renewal permits. The implementation agreement should reflect the fact that there is a difference between terms that are created or revised in a combined Title I/Title V permit, and that are subsequently incorporated into a Title V renewal permit, and adequate procedures for notation of those terms should be developed. USEPA is available to discuss these issues further, and to work with IEPA to update the implementation agreement as necessary.

8. Outstanding initial Title V and synthetic minor permit applications

At the time of the visit to Springfield, IEPA had 35 initial Title V permits left to issue. IEPA did not meet its goal of issuing all Title V permits addressed in its commitment schedule by December 1, 2003. In addition, since the program review, it has come to USEPA's attention that there are a significant number of Title V facilities, approximately 50-70 that have applied to IEPA for federally enforceable state operating permits (FESOPs) but have not yet received those permits. IEPA explains that the delay in Title V and FESOP permit issuance is due to extreme citizen interest in the remaining initial Title V permits to be issued, and the focus of effort on initial Title V permits rather than FESOPs. Although EPA recognizes that these issues are challenges to timely permit issuance, these challenges exist for all permitting authorities. Furthermore, for the most part, these burdens are inherent to the normal process of issuing Title V permits. USEPA is willing to provide assistance in resolving issues related to issuance of these permits, upon request by IEPA.

C. General Observations

USEPA noted two human resource issues during the visit to IEPA, which we had noted in general during recent years of working with IEPA's program. The first issue is the number of vacancies in the management structure of the Title V permit unit; the second issue is a decrease in the number of staff in the compliance section. USEPA notes these human resource issues because they are a

component of IEPA's Title V program as it was approved by USEPA, and also because they may relate to other findings in this report.

These staffing levels are a part of IEPA's approved program. The fact that positions which were formerly filled with staff or managers are now vacant, or possibly no longer in existence, is not in itself a cause for concern. There is no federal requirement for any specific staffing levels in any portion of a program; the CAA simply requires that a program be able to meet the requirements outlined in 40 C.F.R. § Part 70. Approval of a program is based upon all of the information submitted, which includes staffing levels. Staffing levels are considered, for the purposes of this report, only in relation to the performance of IEPA in meeting the requirements of 40 C.F.R. § Part 70.

With respect to management vacancies, both supervisors and the manager left the section in Spring 2004, and all three positions remained vacant for approximately a year. Since then, one supervisor position has been filled, but the other supervisor and the manager positions remain vacant. Additionally, there has been a decrease in the number of staff in the compliance section. This staff is responsible for implementing the compliance assurance requirements of the Title V program, including review of periodic compliance reports and certifications, deviation reports, stack test reports, and observation of stack tests. These reports and compliance demonstrations are requirements of a permit, and these compliance assurance activities for Title V sources are all funded by the Title V program.

We have noted in the positive findings section that IEPA has found a way to offer financial incentives, such as paid overtime and tuition reimbursement, to staff, and that such measures can aid in recruiting and retaining high quality employees. Unfortunately, Illinois human resource policies are not similar for managers at state agencies. During recent years, cost-of-living salary increases have been curtailed or eliminated for managers at Illinois state agencies, including IEPA. These policies may have contributed to the long-term vacancies in the Illinois program. Also, the questionnaire may have uncovered ways in which this staffing issue could be related to findings in this report: that staff meetings have not been held regularly since the management vacancies occurred, and that lack of management in the Title V unit has affected IEPA's ability to maintain consistency in permits and in implementing state and federal policy. (See section G of Attachment 1.) Since the visit to IEPA's office, it is noted that a supervisor has been hired to fill one of the vacant positions. USEPA commends IEPA for taking this step.

With respect to the issue of staffing in the compliance section, responses to the questionnaire reveal that lowered staffing levels in the compliance section may not allow for activities required by the Title V program. (See section F of Attachment 1.) These activities include review of periodic compliance reports, malfunction or excess emission reports, and tasks related to the oversight of compliance demonstrations, such as stack test observation, pre-test meetings, and review of stack test reports. Specifically, IEPA mentioned that, before adding periodic monitoring or stack testing requirements to permits, where none exists in the applicable requirement as required by 40 C.F.R. §

70.6(a)(3), it must consider workload issues to ensure staff is available to review reports and observe stack testing.

Although IEPA hiring and compensation practices were addressed in the questionnaire, there are not specific recommendations on this issue. However, as IEPA develops its action plan on the other findings, USEPA recommends that these staffing issues be considered, as appropriate. Additionally, if significant changes in staffing levels have occurred since the program was submitted for approval, or if IEPA believes that changes to the program are required, then those revisions should be included in the action plan. To the extent that IEPA plans to evaluate staffing and resources, USEPA offers the following guidance document, which provides a fairly comprehensive list of agency activities which are considered to be required by and funded by a Title V program (and also those activities which are not part of a Title V program) in Appendix G.

V. Updates

Since the date of USEPA's visit to Springfield on August 18, 2004 through August 20, 2004, IEPA has taken actions to continually improve its permit program. Some of those actions relate to program areas identified in the findings section of this report. In addition, IEPA and USEPA have established communication on many of these issues as part of the ongoing oversight/implementation relationship between the two agencies. Progress toward resolution of findings is presented here to provide a current, accurate status of IEPA's permit program, and to commend IEPA for the actions it has already taken to resolve the findings in Section IV.

1. Periodic Monitoring

In order to ensure that future permits contain periodic monitoring sufficient to meet federal requirements, IEPA and USEPA have worked closely together. As reflected in many of the comments made by USEPA on Illinois Title V permits during 2004, the practice of using record keeping to serve as periodic monitoring has not always been sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as required by 40 C.F.R. § 70.6.

USEPA sent an e-mail outlining concerns about periodic monitoring in Title V permits on a programmatic basis to staff, managers, and legal counsel at IEPA on November 15, 2004. This e-mail can be found in Appendix B. Additionally, explanation of the requirement for periodic monitoring can be found in an objection issued on March 25, 2005, in response to citizen petitions, to two Title V permits issued by IEPA. As stated in the Order responding to the petition to object to the permit for Midwest Generation, LLC Fisk Generating Station (see Appendix H), "IEPA must include in the final permit 'periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance' with the emission limitations..."

During this time, IEPA has taken steps to improve the quality of periodic monitoring in its permits. In 2005 a supervisor was hired in the Title V unit, and staff meetings occur regularly now. At these meetings, management and staff have discussed periodic monitoring, and current information about periodic monitoring has been disseminated. In an additional effort, IEPA has scheduled a coordinated training with USEPA for its permit writers on CAM and periodic monitoring issues. IEPA has invited a representative from USEPA to participate in this training, which is scheduled for October 2006.

2. Statement of Basis

Since August 2004, a significant amount of activity has occurred in Illinois with respect to statement of basis. Currently, many projects summaries issued by IEPA contain information in addition to what was present in August 2004. This includes the following information, which is specific to the permitted facility:

- a list of significant emission units (copied from the permit);
- name and location of the facility;
- attainment status of the area in which the facility is located;
- nature of operations at the facility;
- legal basis for requiring the source to obtain a Title V permit;
- state-only enforceable emission limitations established for fee purposes (copied from the permit);
- a statement of whether or not the permit establishes new or revised Title 1 terms;
- a statement of whether or not the facility has certified compliance with all applicable requirements in its application;
- a statement of whether or not the source is subject to the following programs: CAM and ERMS.

IEPA has developed a draft, revised template for the statement of basis to provide an opportunity for discussion with USEPA of necessary components: non-applicability determinations, rationale for selected periodic monitoring in the permit, basis for decision about whether or not a compliance plan was required, description and explanation of any Title I actions taken, and other discussions necessary to support the actions taken in the permit. Comments from USEPA to IEPA on project summaries were provided by e-mail on December 20, 2004, as part of IEPA's project summary revision process.

USEPA and IEPA continue to discuss these comments and find ways for IEPA project summaries to, at a minimum, comply with the federal requirements for a statement of basis. IEPA has frequent staff meetings to discuss statement of basis issues and to disseminate current information. IEPA also conducted a coordinated training with USEPA regarding "How to Write a Statement of Basis" on August 8, 2006. USEPA continues to review and comment on the project summaries, which serve as the statement of basis and are issued with permits, and to

recommend ways for permit writers to include discussion of the basis for decisions on the aforementioned issues.

3. Permit Shields / Non-applicability Statements

USEPA continues to review permits that contain permit shields for non-applicability determinations. This issue has been discussed in permit comments to IEPA – one example is in USEPA’s comments on General Mills, submitted to IEPA on October 8, 2004. In order to ensure that placement of non-applicability determinations, or permit shields, in Title V permits will comply with federal requirements, IEPA has taken action to improve this portion of its program. The coordinated training with USEPA regarding “How to Write a Statement of Basis” included discussion of permit shields.

IEPA is also in the process of revising the CAM portion of its application form (464) to include data about its potential to emit to support non-applicability determinations. This form is the basis for the rationale for non-applicability statements regarding whether an emission unit is subject to CAM requirements. Requiring an applicant to submit information about its potential to emit is a significant step toward providing an adequate rationale for determining applicability on the basis of a source’s major or minor status. USEPA commends this step, and we look forward to working with IEPA to find ways to review that information and to develop the rationale in the statement of basis, as well as to gather potential to emit data with respect to other federal regulations for which it is an applicability criterion.

4. Availability and Adequacy of Written Response to Comments

Since August 2004, in the context of a permit petition, USEPA has determined that, because commenters on a draft permit do not know why or how their comments are addressed by IEPA, the public participation process is not meaningful. On page 4 of the Fisk Generation petition response in Appendix H, USEPA explained, “It is a general principle of administrative law that an inherent component of any meaningful notice and opportunity for comment is a response by the regulatory authority to significant comments...Accordingly, IEPA has an obligation to respond to significant public comments.”

There have also been instances where IEPA has not provided a sufficient response to USEPA comments. In a handful of instances, these comments on permits were not fully resolved prior to issuance of the final permit by IEPA. For example, USEPA has commented that the basis for permit shields must be included in the statement of basis, and IEPA included permit shields in permits without providing adequate legal rationale in the permit record for these permits (Jacksonville Development, Radio Flyer, and General Mills.) USEPA is still investigating these incidents.

Also since August 2004, IEPA has taken the following actions to make adequate, written responses consistently available to significant comments made during the public comment

period: management now obtains copies of all public comments to ensure that the responsiveness summary adequately addresses all comments and the permit is revised where appropriate. USEPA now comments on draft permits; these comments are evaluated, discussed and addressed before the permit is submitted to USEPA for review as a proposed permit. IEPA now routinely provides written responses to public comments, instead of only when a hearing has been held.

5. Title I/Title V Implementation Agreement

Currently, it appears that the practice of labeling all Title V permits as combined permits has ceased. Illinois EPA has modified the header and footer on the cover page of its permits to clearly denote the type of permit being issued. Also, a new condition (term 1.5) has been added to clearly identify the type of Title I conditions found in the permit. This is a significant improvement over previous practices, in that there is a place in the permit where it is concisely stated whether or not the permit is combined. It is much easier now to discern whether or not a permit is combined, and IEPA is to be commended for this improvement. USEPA will continue to work with IEPA to ensure that the public notice language is also changed so that the public is consistently aware of the type of draft permit IEPA issues.

6. Issuance of Initial permits and FESOPs

Currently, IEPA has 5 initial Title V permits left to issue. Of these five, three permits have been issued at some stage of the permitting process and are moving forward toward final issuance. This is significant progress since the visit to Springfield in 2004. Additionally, IEPA has increased staffing by hiring 5 new engineers to work in the FESOP unit, in order to improve its FESOP issuance rate. USEPA appreciates this commitment, and looks forward to working with IEPA toward issuance of the FESOP permits and the last remaining initial Title V permits.

VI. Recommendations

USEPA recommends that IEPA submit an action plan to address the findings of this report within 120 days from the date it is transmitted to IEPA. The purpose of this action plan is to ensure that a strategy is in place to resolve the findings in the areas needing improvement, contained in section IV.B of this report, and to track progress on that resolution. Although in a few cases immediate actions are recommended, and some of the findings may be completely resolved within 120 days, it is likely that resolution of other findings may take longer. However, the action plan will serve as a way for IEPA to communicate its commitment to resolving these issues in a timely manner. It will also be a good opportunity for both agencies to measure the progress that is made before that time and that is projected to be made in the future.

The action plan should describe all actions to address the findings of this report. The action plan

should contain a summary of actions taken by IEPA on any issues identified in this report which it has resolved prior to submission of the action plan, and should contain a strategy to address issues which remain outstanding. To the extent that USEPA can be helpful in this process, we are willing to participate and contribute in accordance with our oversight role in this program and our experience in working with other states on these issues, upon request by IEPA. A successful strategy for addressing these issues can result from a process that considers the challenges and opportunities unique to Illinois' Title V program, as well as successful approaches taken by other permitting authorities to meet these Title V program requirements.

Listed below are summaries of the information that, at a minimum, IEPA should include in the action plan for each finding, with more detail for some of these issues provided in Attachment 2. IEPA should submit the action plan to the Section Chief, Air Permits Section at USEPA Region 5.

1. Periodic Monitoring

The action plan should include all actions taken or planned to be taken in order to ensure that future permits issued by IEPA contain periodic monitoring sufficient to meet state and federal requirements described previously in this report. These action should include: conduct training on how to determine when periodic monitoring which meets the requirements of 40 C.F.R. § 70.6(a)(3)(i)(B) is not present in the underlying applicable requirement and how a permit writer can develop appropriate periodic monitoring measures when necessary. The action plan should also consider whether or not changes to permit application forms, permit template language, or project summary template language are necessary as part of IEPA's plan to address the periodic monitoring finding of this report.

2. Statement of Basis

The action plan should include measures to ensure that the statements of basis issued with draft permits will, at a minimum, comply with the federal requirement for a statement of basis found in 40 C.F.R. § 70.6(a)(5), the Illinois requirements found in 415 ILCS 5/39.5(8)(b) and also with EPA policy and guidance cited in sections IV.B.2 and V.2 of this report. The action plan should also consider whether or not changes to permit application forms, permit template language, or project summary template language are necessary as part of IEPA's plan to address the statement of basis finding of this report.

3. Non-applicability determinations

IEPA should conduct training regarding placement of non-applicability determinations, or permit shields, in Title V permits which will comply with state and federal requirements. This training should be communicated to the permit writers, and adherence to the practices conveyed during this training should be assured by review of permits by appropriate staff or managers. More detail about this recommendation can be found in Attachment 2. In the interim, USEPA also recommends that

IEPA assure that placement of non-applicability determinations be accomplished in a manner consistent with state and federal regulations. Additionally, the action plan should consider whether the current permit forms and instructions are clear with respect to what information is required from an applicant to obtain a non-applicability determination, or whether changes to the forms or instructions will be necessary.

The action plan should consider how to correct the apparent conflict between federal and state requirements and permit language for permit shields. Additionally, the action plan should consider whether the current permit forms and instructions are clear with respect to what information is required from an applicant to obtain a non-applicability determination, or whether changes to the forms or instructions will be necessary.

4. Availability and adequacy of written response to comments

USEPA recommends that IEPA begin to issue written responses to significant comments received during the public comment period immediately upon receipt of this report. The written responses should be available for review upon issuance of the proposed Title V permit. This is especially important for comments which were not addressed in whole by changes incorporated into the proposed Title V permit. Not only will this document ensure meaningful public participation, but it will also aid in review of the proposed permit. The action plan should include a commentary on any measures taken to develop procedures to provide a timely written response to significant comments on permits, and projected completion dates for any measures which are planned, but have not yet been completed.

5. Permit renewal applications

The action plan should include, but not be limited to, measures to revise or amend permit application forms to require clear, unambiguous incorporation of previously submitted information into the permit application. With respect to this issue, the action plan should identify who will be responsible for revising the forms, when this is projected to occur, and how USEPA will be given an opportunity to comment on the revisions.

6. Severability of permits

Upon issuance of this report, IEPA immediately should begin to provide a response to any motion for stay that is requested during the process of a Title V permit appeal. If an opportunity to present such a defense presents itself before the action plan is due, then the progress on that defense should be included in the action plan. If responding to a motion for a stay of an entire permit during an appeals process is not successful, then IEPA should evaluate options for achieving compliance with the 40 C.F.R. § Part 70 requirements with respect to this issue. IEPA should keep USEPA informed of progress, both in the action plan or after the time that the plan is submitted.

7. Title I/ Title V implementation agreement

Upon issuance of this report, IEPA should use the public notice language required by the Title I / Title V streamlining implementation agreement only in public notices for combined permits. Permits issued solely under the authority of Title V, and the associated public notices, should not contain any language that designates them as streamlined permits. Additionally, USEPA requests that IEPA consider how the implementation agreement can be used or amended to address issuance of renewal permits for streamlined Title I / Title V permits. If it is determined that the implementation agreement must be amended, a projected timeframe for submittal of the modified agreement to USEPA for signature should be included in the action plan.

8. Initial Title V and FESOP permit issuance

Because IEPA's Title V permit program has not met its initial permit issuance deadline, and has not yet issued FESOPS to many Title V major sources, IEPA must examine how to complete issuance of these permits. USEPA requests that IEPA submit a permit issuance strategy as part of the action plan requested by this evaluation, for both initial Title V permits and FESOPs.

VII. State Recommendations for USEPA

During the site visit and in answer to the questionnaire, IEPA made two recommendations of ways in which USEPA could help with the implementation of the Title V program in Illinois. The first is assisting IEPA in review of stack testing protocols, stack testing reports, and non-emissions testing reports received, particularly for National Emissions Standards for Hazardous Air Pollutants (NESHAP) source categories. IEPA stated that USEPA Region 5 is already taking the lead on non-emissions testing reports from sources subject to 40 CFR § 63 Subpart RRR.

USEPA feels that the primary responsibility for reviewing compliance reports and stack testing protocols and reports lies with the permitting authority, as the Title V implementing authority. Although USEPA could appropriately provide training opportunities for IEPA staff to assist them in these activities, sufficient staff resources to accomplish compliance assurance activities, prior to issuance of a notice of violation, is expected of an approved Title V program. These activities are to be supported by Title V fees, as discussed in the guidance document in Appendix G.

The second suggestion, to provide additional training for NESHAP source categories, is an ongoing effort by USEPA. USEPA Region 5 typically invites all permitting authorities to attend NESHAP training opportunities provided by USEPA headquarters; these training are offered on a routine basis. If training for any particular NESHAP source category is desired, USEPA invites further discussion so that USEPA can take these requests into account when planning and developing plans for future training.

VIII. Good News Stories

The organization of IEPA Title V permits, the availability of permit documents online, and the ability to provide paid overtime and tuition reimbursement as financial incentives for employees, are “good news” stories from Illinois permitting program. Additionally, IEPA stated during the review that many air pollution benefits have been realized in Illinois due to the Title V program. The complete list of benefits can be found in section H of Attachment 1. They include: a better general understanding of underlying applicable requirements by Title V staff, increased awareness by regulated sources of compliance obligations, and improved emissions inventories.

Attachment 1

Title V Program Evaluation

Questionnaire

February 27, 2003

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- B. General Permits (GP)
- C. Monitoring
- D. Public Participation and Affected State Review
- E. Permit Issuance / Revision / Renewal
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- H. Title V Benefits

Title V Program Evaluation

Questionnaire

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A. Title V Permit Preparation and Content

1. What % of your initial applications contained sufficient information so the permit could be drafted without seeking additional information?

Illinois EPA does not keep the accurate track of such applications. To the best of our knowledge, we are determining this level at 5%+. Due to the length of time between receipt and processing of an application, we always contacted the applicant to give the opportunity to update their application.

What efforts were taken to improve quality of applications if this % was low?

The vast majority of all initial CAAPP applications were submitted in 1995-1996 when all PA and potential Permittees had limited knowledge and expertise on the Title V program. We conducted a number of seminars with IERG (Illinois Environmental Regulatory Group) to explain the Title V program and necessary requirements. The permit application forms may be modified at some point in the future to incorporate information about CAM Requirements.

Y N 2. For those title V sources with an application on file, do you require the sources to update their applications in a timely fashion if a significant amount of time has passed between application submittal and the time you draft the permit?

No specific timeframe is given in our regulations for updating a CAAPP application. However, section 39.5(I) of the Act requires that a permit applicant, upon becoming aware of incorrect information in a CAAPP application, must update the application upon discovering the error. Additionally, this section requires the applicant to amend the application to include any relevant information to address requirements that become applicable to the source after the application is submitted but before the permit is issued. Both formal and informal communication methods are used by permit writers to request additional information from the permit applicants.

In all instances, Illinois EPA requested updates to the initial CAAPP application, if amount of physical changes in operation of this source since the time of submission prevented accurately reflecting the actual operating scenario in the drafted Title V permit and/or compliance status of those changes could not be documented or verified. A construction permit application is considered to be an amendment to the CAAPP applications.

Y N a. Do you require a new compliance certification?

Section 39.5(e) of the Act requires that each submitted CAAPP application be certified for completeness, accuracy, and truth by a responsible official. If a part of the permit application is amended, either formally or informally, no updated compliance certification is required at that time unless the responsible official at the facility has changed.

If the company decides to update (resubmit) its initial CAAPP application entirely, then compliance certification is provided as a part of such update.

N 3. Do you verify that the source is in compliance before a permit is issued and if so, how?

Illinois EPA has developed a number of CAAPP forms certifying compliance or non-compliance for each emission unit with applicable regulations. These forms are submitted as a part of a CAAPP application. Illinois EPA has had a construction and operating permit program since 1972. We reviewed our current permits, FOS (Field Operation Services) annual inspection reports, annual emissions reports, excess emission reports, and other compliance files to determine if a compliance plan was necessary .

N a. In cases where the facility is out of compliance, are specific milestones and dates for returning to compliance included in the permit, or do you delay issuance until compliance is attained?

CAA and 39.5(7)(a) of the Illinois Environmental Protection Act allow the issuance of the CAAPP permits for facilities, where non-compliant emission units are in operation and the Permittee submits a schedule for achieving compliance for affected unit(s) at the earliest reasonable date. A number of permits are issued with a placeholder compliance schedule that requires compliance with the consent decree that will be negotiated by the enforcement staff. In some cases, the permits also contain federally enforceable conditions to bring those non-compliant sources into compliance. Illinois EPA did not delay issuance of permits to facilities that were out of compliance, however, due to the length of time it took to process these permits

N 4. What have you done over the years to improve your permit writing and processing time?

Initially, a significant number of staff was hired to write CAAPP permits. New hires are matched with experienced staff to train them in writing CAAPP permits. CAAPP unit meetings were held on a bi-monthly basis to discuss hot issues relative to CAAPP permits, but these meetings have been discontinued due to the lack of management in the CAAPP unit. Once these positions are filled, these meetings are expected to resume. Management was sent to national

STAPPA/ALAPCO permitting conference for the first five years, but have not been able to attend during the last two years due to budgetary constraints. IEPA attends monthly STAPPA/ALAPCO conference calls.

We have developed a permit template that includes sample language to be cut and pasted into permits by the permit writers. The template contains language suitable for different situations, with instructions on how the sample language is to be used. It eliminates the need for permit writers to type in terms and conditions multiple times that are used repeatedly in similar permit situations, and continually evolves as language is added and improved. Also, training courses, seminars and workshops were conducted for permit writers during initial permit writing. Similar sources were assigned to the same analyst to assure consistency.

Y N 5. Do you have a process for quality assuring your permits before issuance? Please explain.

The permit template language was developed in a collaborative process, and went through many levels of review before it was finalized. When the final CAAPP draft is ready for the Public Notice, it is reviewed by an immediate supervisor (manager) for consistency and necessary comments. At one time, staff was assigned to a non-technical review (acronym, basic math, typos, etc.). Due to staff shortages, that has fallen by the wayside. Two typists do all the CAAPP word processing and formatting, and they also review the permits for consistency and formatting errors.

6. Do you utilize any streamlining strategies in preparing the permit such as:

Y N a. Incorporating test methods, major and minor New Source Review permits, MACT's, other Federal requirements into the Title V permit by referencing the permit number, FR citation, or rule? Explain.

We prefer to utilize the direct quotation of any applicable state and federal requirements, including specific NESHAP/NSPS and NSR/PSD emission limits established in the previously issued construction permits. We reference standard EPA test methods in the CAAPP permits.

Y N b. Streamlining multiple applicable requirements on the same emission unit(s) (i.e., grouping similar units, listing the requirements of the most stringent applicable requirements)? Describe.

Similar emission units (i.e., boilers, engines, printing presses, etc.) are identified and grouped together in the same unit-specific section of the permit.

c. Describe any other streamlining efforts.

Use of a template and consistency of structure in all of our permits. Also, the ability to make Title I changes in the Title V permit through a modification allowed us to synchronize the Title I and Title V programs.

7. What do you believe are the strengths and weaknesses of the format of the permits (i.e. length, readability, facilitates compliance certifications, etc.)? Why?

Logically presented structure and detailed explanation of applicable and non-applicable rules are the real strength of our permits. Also, compliance procedure (with formulas, equations, and emission factors) gives everybody a perfect tool for calculating emissions based on availability of certain records, as required by the permit.

8. How do you fulfill the requirement for a statement of basis? Please provide examples.

A document called a project summary is prepared with each draft CAAPP permit. This document contains basic information about the facility, the state-enforceable emission limitations established for the facility for fee purposes, and a statement that public comments are requested on the draft permit. Now we are in process of advanced draft stage of updating the project summary that will dissuade some concerns expressed by USEPA-Region V.

9. Does the statement of basis explain:

Y a. the rationale for monitoring (whether based on the underlying standard or monitoring added in the permit)?

Not at this time. The template used by permit writers to draft the project summary is in the process of revision to include this sort of information.

Y b. applicability and exemptions, if any?

Not at this time. The project summary includes general statements that all sources subject to NSPS, NSHAPs, and NSR must comply with the requirements of those standards. . We are now in the advanced draft stage of updating the project summary that will dissuade some concerns expressed by USEPA-Region V.

Y N c. streamlining (if applicable)?

The new updated project summary has been designed as a compressed version of the key elements of a proposed permit. Therefore, copy and paste technique from the proposed draft into a project summary will be commonly utilized.

Y N 10. Do you provide training and/or guidance to your permit writers on the content of the statement of basis?

The template used by permit writers to draft the project summary contains instructions and pre-written language to address a variety of situations, and provides the basic format and content of the project summary. Training will be conducted as soon Region V approves a new version of the project summary.

11. Do any of the following affect your ability to issue timely initial title V permits:

Y N a. SIP backlog (i.e., EPA approval still awaited for proposed SIP revisions)

Y N b. Pending revisions to underlying NSR permits

The T1/T5 has helped avoid delays due to this

Y N c. Compliance/enforcement issues

We have a way to solve compliance enforcement issues, but it still slows us down because of the need to communicate with the enforcement staff regarding the permittee's status. It's an added step to the process.

Y N d. EPA rule promulgation awaited (MACT, NSPS, etc.)

Y N e. Issues with EPA on interpretation of underlying applicable requirements

Y N f. Permit renewals and permit modification (i.e., competing priorities)

Y N g. Awaiting EPA guidance

i. If yes, what type of guidance?

Y N ii. If yes, have you communicated this to EPA?

A. If yes, how did you request the guidance?

If yes, please specify what type of EPA guidance, and how you requested the guidance

Note: If yes to any of the above, please explain.

Comment to 11 (c) above:

Initially was a problem but we were finally able to convince IEPA and USEPA compliance staff that the enforcement strategy could be tied to the Compliance Schedule/Plan.

Comment to 11 (e) above:

As this program has evolved it has been a learning process at both the State and Federal levels. Both Agencies need to work out lines of communication so that adjustments can be made in our permits to reflect current national guidance.

12. Any additional comments on permit preparation or content?

On a number of occasions, there are significant delays in the issuance of the Title V permit due to citizen concerns and the need to conduct public hearings. EJ issues, multi-media issues, etc. complicate the process. In number of instances, after citizen concerns are heard or multi-media issues are raised, the IEPA appears to lose control of the permitting process due to the issues being brought beyond the scope of the CAAPP program.

B. General Permits (GP)

Y N 1. Do you issue general permits?

No.

a. If no, go to next section

b. If yes, list the source categories and/or emission units covered by general permits.

Y N 2. In your agency, can a title V source be subject to multiple general permits and/or a general permit and a standard "site-specific"Title V permit?

a. What percentage of your title V sources have one or more general permits have more than one general permit?
%

Y N 3. Do the general permits receive public notice in accordance with 70.7(h)?

a. How does the public or regulated community know what general permits have been written? (E.g., are the general permits posted on a website, available upon request, published somewhere?)

4. Is the 5 year permit expiration date based :

Y N a. on the date the general permit is issued?

Y N b. on the date you issue the authorization for the source to operate under the general permit?

5. Any additional comments on general permits?

C. Monitoring

1. How do you ensure that your operating permits contain adequate monitoring (i.e., the monitoring required in §§ 70.6(a)(3) and 70.6(c)(1)) if monitoring is not specified in the underlying standard or CAM?

We have standard language for record keeping, reporting, and compliance methods in the template language. If a source is not subject to any underlying rules or CAM, the individual permit writer decides how to address monitoring in the permit. General operation and maintenance language is provided in the permit template. We are evaluating an initiative to establish monitoring in CAAPP permits in a more uniform way.

Y a. Have you developed criteria or guidance regarding how monitoring is selected for permits? If yes, please provide the

guidance.

We are drafting procedures to address CAM, and are evaluating ways to apply these principles to non-CAM sources . We rely on monitoring developed by state and federal standards to assure compliance with NESHAP/NSPS and NSR requirements.

- N 2. Do you provide training to your permit writers on monitoring? (e.g., periodic and/or sufficiency monitoring; CAM; monitoring QA/QC procedures including for CEMS; test methods; establishing parameter ranges)

The CAAPP permit template contains language that addresses monitoring, and the instructions specify what terms the permit writers are to include for various situations (e.g. CAM, etc.) Several permit engineers had been trained during a 2-day CAM seminar (December 2003) in Indianapolis. . We may propose an additional monitoring training later this year.

- N 3. How often do you "add" monitoring not required by underlying requirements? Have you seen any effects of the monitoring in your permits such as better source compliance?

Case-by-case determination is made during each drafting process. There is no universal approach in dealing with gap-filling monitoring and this matter may be complicated by possible legal and permit appeal problems. We probably have more leeway because of our fee structure, which requires records be kept to demonstrate compliance with the state-allowable emission limitations. These records may include: throughputs of raw materials, VOM content or materials, records of compliance demonstrations, or other relevant records. The VOM trading program (Emissions Reduction Market System) also provides for requirements to track emissions in affected areas of the State. Each permit also contains a statement that IEPA can request stack testing at any time.

The utility permits, which have not yet been issued final, contain gap-filling monitoring requirements.

- N 4. Are you incorporating CAM monitoring into your permits?

CAM is addressed in all renewal CAAPP permits. CAM language is being included in the revisions proposed to the permit template language. See previous comments on CAM.

D. Public Participation and Affected State Review

Public Notification Process

- Y** **N** 1. Do you publish notices on proposed title V permits in a newspaper of general circulation?

Yes, local newspapers

- Y** **N** 2. Do you use a state publication designed to give general public notice?
3. On average, how much does it cost to publish a public notice in the newspaper (or state publication)?

\$ 500-750 _____ (per publication)

- Y** **N** 4. Have you published a notice for one permit in more than one paper?
- a. If so, how many times have you used multiple notices for a permit?

We may use multiple notices when a facility is located in an area that falls between the circulation areas of two newspapers or when the local residents may not have English proficiency. For example, public notices for Midwest Generation facilities in Crawford and Fisk were published in both English and Spanish.

- b. How do you determine which publications to use?

We use guidance from the Illinois Press Association, the experience of Illinois EPA staff and local contacts

- c. What cost-effective approaches have you utilized for public publication?

On occasion we have used one notification to publish more than one facility's notice (multiple facilities in one notice). For example, some of the power plants Title V permits were issued simultaneously and had combined public hearings, so they were noticed together.

- Y** **N** 5. Have you developed a mailing list of people you think might be interested in title V permits you propose? [e.g., public officials, concerned environmentalists, citizens]
- a. How does a person get on the list?

Aside from the people that are required by regulation to be on the list (i.e. elected officials, the company, etc.), individuals interested in a CAAPP permit can contact the Illinois EPA and will be put on the list. People are also put on the list if they have attended a hearing for another facility in the same general area.

b. How does the list get updated?

Through the return of mailed notices, hearing registration, and direct contact we find out what addresses need to be updated.

c. How long is the list maintained for a particular source?

The general database of interested parties, either statewide or by geographic location (county) is not source specific and is updated on a continuous basis. To the extent that a list may be generated for a specific source it is kept indefinitely.

d. What do you send to those on the mailing list?

The public notice.

- Y** N 6. Aside from publications described above, do you use other means of public notification?

If yes, what are they (e.g., post notices on your webpage, e-mail)?

Direct mailing and electronic notices can also be sent in certain cases. Public notices of draft permits are updated in the Illinois Permits Database, are posted on the Region 5 website and notices of hearings are posted on the Illinois EPA website.

- Y** N 7. Do you reach out to specific communities (e.g., environmental justice communities) beyond the standard public notification processes?

Our community relations process involves talking with the affected community as much as we can. We work with local activist groups or concerned citizens to establish times and settings of public meetings or hearings prior to sending a notice. We provide copies of permit files to a local library during a comment period prior to a public hearing. When a hearing is held, three notices are given in the paper and 45-days notice prior to the hearing is given to the public. The public has thirty days after the hearing to submit comments.

- Y** N 8. Do your public notices clearly state when the public comment period begins and ends?

The notice lists the date the comment period ends. It does not list when the comment period began.

9. What is your opinion on the most effective avenues for public notice?

Direct mailing to interested individuals

Y N a. Are the approaches you use for public notice effective?

Y N 10. Do you provide notices in languages besides English? Please list.

We do if the area in which the facility is located has a population that is not English proficient.

Public Comments

Y N 11. Have you ever been asked by the public to extend a public comment period?

Y N a. If yes, did you normally grant them?

b. If not, what would be the reason(s)?

We can not recall a time when we did not extend a public comment period when requested. We may grant extensions for shorter periods of time than what was requested.

Y N 12. Has the public ever suggested improvements to the contents of your public notice, improvements to your public participation process, or other ways to notify them of draft permits? Describe.

Add public enforceability language to the notice; push for more public notices and permit records to be available via electronic means; performing an EJ analysis or perform enhanced public participation in EJ areas.

Y N 13. Do you provide the public a copy of the statement of basis if they request it? If no, explain.

14. What percentage of your permits have received public comments?

Approximately 5-7% (not considering permittee's comments). This rate has increased over the years.

- N 15. Over the years, has there been an increase in the number of public comments you receive on title V permits? Is there any pattern to types of sources getting comments?

Yes, after USEPA's Title V citizen training, comments from the Illinois participants increased in areas where those participants lived. Also, the more complex Title V permits were done near the end of the initial round of permit issuance, and they were the permits most likely to get comments.

- N 16. Have you noticed any trends in the type of comments you have received? Please explain.

It is important to note that most of the public comments received on Title V permits come from a small group of individuals. Their comments frequently include the following topics:

*Organization of the permit.
Clearly list Title I changes to the permit.
Plain English in the permit.*

- a. What percentage of your permits change due to public comments?

Most of the permits that receive public comments are modified to some extent to address comments. Relatively few permits receive comments however.

- Y N 17. Have specific communities (e.g., environmental justice communities) been active in commenting on permits?

Commentors are site specific. The southeast side of Chicago is active in commenting on CAAPP permits, and the American Bottom Conservancy is also active in commenting on permits in the metro east area.

- Y N 18. Do your rules require that any change to the draft permit be re-proposed for public comment?

- a. If not, what type of changes would require you to re-propose (and re-notice) a permit for comment?

If there is a relaxation of a requirement initially established in the draft permit, then re-public notice would occur.

EPA 45-day Review

- Y N 19. Do you have an arrangement with the EPA region for its 45-day review to start at the same time the 30-day public review starts? What could cause the EPA 45-day review period to restart (i.e., if public comments received, etc)?

We had an agreement for concurrent permit issuance that was a pilot program, and it has expired. We are in the process of reviewing a new memorandum of agreement to permanently establish a procedure for concurrent permit issuance, which has changed somewhat since the pilot program.

The 45-day review period could be re-started if public comments are received during the 30- day comment period, or upon USEPA Region 5 request.

- a. How does the public know if EPA's review is concurrent?

The information is in the public notice.

- N 20. Is this concurrent review process memorialized in your rules, a MOA or some other arrangement?

As discussed above, an expired memorandum of agreement for a pilot program of concurrent issuance was signed, and a new MOA is being negotiated.

Permittee Comments

- N 21. Do you work with the permittees prior to public notice?

The permittee is contacted to ensure that the application is current prior to draft issuance. In many instances, we provide the facility with a pre-draft electronic version of the permit prior to public notice.

- N 22. Do permittees provide comments/corrections on the permit during the public comment period? Any trends in the type of comments? How do these types of comments or other permittee requests, such as changes to underlying NSR permits, affect your ability to issue a timely permit?

Comments from the permittee provided during the public comment period vary according to a source. The additional time spent on receiving comments from the permittee is not significant in the scheme of the Title V permit writing process, and may actually save time in the long run by avoiding appeals and improving the overall quality of the permit.

Public Hearings

23. What triggers a public hearing on a title V permit?

A request from the company automatically triggers a public hearing. Other requests, such as from an elected official or a significant number of individual commenters, may result in a public hearing at the discretion of the Director .

- N c. Do you ever plan the public hearing yourself, in anticipation of public interest?

Availability of Public Information

- N 24. Do you charge the public for copies of permit-related documents?

If yes, what is the cost per page?

\$0.25 per page for requests that are more than 400 pages.

- N a. Are there exceptions to this cost (e.g., the draft permit requested during the public comment period, or for non-profit organizations)?

Yes, during the comment period the draft permit, project summary, application and notice are available without charge. Non-profit groups and individuals can also request a waiver of fees at any time.

- N b. Do your title V permit fees cover this cost? If not, why not?

25. What is your process for the public to obtain permit-related information (such as permit applications, draft permits, deviation reports, 6-month monitoring reports, compliance certifications, statement of basis) especially during the public comment period?

The draft permit, project summary, application and notice are available upon request during the comment period without the need for the FOIA process. All other documents are available through the FOIA process, except for any documents that are confidential.

Y N a. Are any of the documents available locally (e.g., public libraries, field offices) during the public comment period? Explain.

Yes, the draft permit, project summary, application and notice are available at the local field office and when there is a hearing these documents are generally available at another local location such as a library.

26. How long does it take to respond to requests for information for permits in the public comment period?

That depends on the information requested. Generally the draft permit, project summary, application or notice can be mailed or e-mailed the same day.

Y N 27. Have you ever extended your public comment period as a result of information requests?

Extension of a comment period results from a request to extend the public comment period rather than a request for information . We have received requests to extend comment periods because commenters wanted more time to receive information.

a. Where is this information stored?

Permit file at the central office in Springfield is one of those locations. Other locations: the field office or the local library.

Y N b. Do information requests, either during or outside of the public comment period, affect your ability to issue timely permits?

Y N c. Have you ever extended the public comment period because of a request for a public hearing?

No, public hearings have comment periods associated with them so there is no need to extend the initial comment period.

Y N 28. Do you have a website for the public to get permit-related documents?

Here is the website:

IL Permits Database (on Region 5 website): www.epa.gov/region5/air/permits/ilonline.htm

EPA public hearing website: www.epa.state.il.us/public-notice

a. What is available online?

The draft, proposed and issued permits, project summary and public notice. If there is a hearing, the hearing transcript and responsiveness summary are also available.

b. How often is the website updated? Is there information on how the public can be involved?

The website is updated daily or weekly as needed. The site includes contact information and the public notices.

N 29. Have other ideas for improved public notification, process, and/or access to information been considered? If yes, please describe.

More electronic notifications

N 30. Do you have a process for notifying the public as to when the 60-day citizen petition period starts? If yes, please describe.

Yes. If comments are received, a letter is sent to commenters when a proposed permit is prepared, notifying commenters of their right to petition USEPA.

N 31. Do you have any resources available to the public on public participation (booklets, pamphlets, webpages) ?

Yes, the Illinois EPA has a public participation page on its website and on an as needed basis we will put together site or topic specific fact sheets.

N 32. Do you provide training to citizens on public participation or on Title V?

We have offered to provide Title V training to local groups. However, the one specific group did not follow up with us on scheduling a training. We also have done individual presentations to small groups.

N 33. Do you have staff dedicated to public participation, relations, or liaison?

Brad Frost is currently in this position

a. Where are they in the organization?

They are in the Associate Director's Office.

b. What is their primary function?

They are central point of communication with the public. They are responsible for making sure that public participation requirements are met and they organize the Illinois EPA's public participation activities.

Affected State Review and Review by Indian Tribes

34. How do you notify affected States of draft permits?

They are on the mailing list for all Title V permits, meaning that they have a notice sent to them.

a. How do you determine what States qualify as "affected States" for your draft permits?

The surrounding states, including Michigan, are sent all notices so that we don't have to make that determination.

35. How do you notify tribes of draft permits?

We don't have any tribes in Illinois.

36. What percentage of your permits get comments from affected States? from Tribes?

We have received no comments from affected states.

37. Is there any pattern to the type of draft permit that gets affected State / Tribal comment? Are there common themes in comments from affected States or Tribes?

N/A

38. Suggestions to improve your notification process?

It would be good to rely more upon electronic methods of public notification.

Any additional comments and public notification?

NO

E. Permit Issuance / Revision / Renewal

Initial Permit Issuance

- N 1. If not all initial permits have been issued, do you have a plan to ensure your permits are issued in a reasonable timeframe? If not, what can EPA do to help?

The majority of the initial Title V (CAAPP) permits have been issued. The outstanding permits fall into the following categories:

Utility permits - have been drafted and proposed, but are in the process of being re-drafted due to extensive public concern.

Extremely controversial permits – 9 permits for sources in Madison county are affected by issues related to citizen concerns, compliance schedules, and environmental justice. These permits have been drafted, but resolving these issues has taken additional time. Two of these permits are being re-drafted in response to citizen concerns.

Permit Revisions

2. Did you follow your regulations on how to process permit modifications based on a list or description of what changes can qualify for:
- N a. Administrative amendment? (See § 70.7(d)(vi))
- N b. §502(b)(10) changes? (See §70.4(b)(12))
- N c. Significant and/or minor permit modification? (See §70.7(e))
- Y d. Group processing of minor modifications?
- Y 3. If the EPA Regional office has formally asked you to re-open a permit, were you able to provide EPA with a proposed determination within 90

days? (40 CFR 70.7(g)(2))

Region 5 has not asked us to re-open a permit.

If not, why not?

4. For those permits that have been issued, and where the permitted facility has undergone a change, how many changes to the title V permit have you processed?

We have issued 125 + modifications to CAAPP permits

a. What percentage of changes at the facilities are processed as:

i. Significant

15%

ii. Minor

40%

iii. Administrative

45%

b. Of all changes that you have, how many (or what percentages) were:

i. Off-permit

None

ii. 502(b)(10)

Permits were drafted to allow flexibility that would generally have been sought under 502(b)(10)

5. How many days, on average, does it take to process (from application receipt to final permit amendment):

- a. a significant permit revision?

ICEMAN, our current data tracking system, does not have the capability of tracking this information. We know that our processing time is decreasing dramatically, because of the prioritization of initial CAAPP permit issuance which is nearly completed.

- b. a minor revision?

ICEMAN, our current data tracking system, does not have the capability of tracking this information.

- c. an administrative revision?

ICEMAN, our current data tracking system, does not have the capability of tracking this information.

N 6. Have you taken longer than the part 70 timeframes of 18 months for significant revision, 90 days for minor permit revisions and 60 days for administrative? Explain.

We do not have actual data on this, because our current management system does not track this data. The focus on initial Title V permit issuance to meet the commitment schedule resulted in some delays in the issuance of modifications. However, now that the majority of initial Title V permits have been issued, significant progress has been made since January of 2004 in reducing the backlog of pending applications for modifications.

7. What have you done to streamline the issuance of revisions?

Our rules are structured so that once the source receives a construction permit, the permittee can operate according to that until the CAAPP modification is issued. The modifications are being assigned to the original CAAPP permit writer as often as possible. See different sections on how we implement streamlining procedures.

8. What process do you use to track permit revision applications moving through your system?

Our existing data management system, ICEMAN, has been designed for use in tracking all air regulatory activities, including receipt of permit applications and permit issuance. However, it has not been fully functional in achieving these goals. ICEMAN will be re-programmed to better track the receipt and processing of permit applications as resources allow. In the interim, we have instituted a manual process for overriding the system to input this data for renewals.

- N 9. Have you developed guidance to assist permit writers and sources in evaluating whether a proposed revision qualifies as an administrative amendment, off-permit change, significant or minor revision, or requires that the permit be reopened? If so, provide a copy.

Guidance on this issue to assist the sources has been developed and is available on the IEPA website. A copy of the guidance is attached to this questionnaire. This guidance may also be used by a permit writer.

- N 10. Do you require that source applications for minor and significant permit modifications include the source's proposed changes to the permit?

- N a. For minor modifications, do you require sources to explain their changes and how it affects their applicable requirements?

- N 11. Do you require applications for minor permit modifications to contain a certification by a responsible official, consistent with 70.5(d), that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used?

12. When public noticing proposed permit revisions, how do you identify which portions of the permit are being revised? (e.g., narrative description of change, highlighting, different fonts).

The front page of the permit modification describes, in narrative form, the action being taken, and which portions of the permit are being modified.

13. When public noticing proposed permit revisions, how do you clarify that only the proposed permit revisions are open to comment?

This is not typically clarified in the public notice for these modifications, but is expressed when we discuss these modifications with commenters.

Permit Renewal Or Reopening

- N 14. Have you begun to issue permit renewals?

Yes, **38** permit renewals have been issued final at this time. **53** renewal permits have been issued at the draft stage, and **53** renewal permits have been proposed.

15. What are your plans for timely issuance of the renewals?

Newly developed permit model along with much more experienced staff will allow timely renewal. We are working with USEPA_Region 5 on resolving our differences and considering their comments on the proposed permit model. The same efforts made to improve processing time of initial permits will be applied to renewals.

Y N 16. Do you have a different application form for a permit renewal compared to that for an original application? (e.g., are your application renewal forms different from the forms for initial permits)

No, the same CAAPP permit application is used for initial permits, renewal permits, and significant modifications. It can be found on our website at the following address:

<http://www.epa.state.il.us/air/caapp/permit-forms.html>

a. If yes, what are the differences? Are 1st time requirements (like CAM, off permit changes, etc.) in a renewal application being included in the renewal?

Y N 17. Has issuance of renewal permits been "easier" than the original permits? Explain.

It is helpful that any applicable requirement that applied at the time of permit issuance is already incorporated into the permit. It is also easier because the significant emission units at the facility are already established, and general facility requirements are established. However, many rules (MACT standards, for example) have been promulgated since initial permit issuance and they must be included in the terms and conditions. Additionally, guidance developed since initial permits were issued and regulatory changes have resulted in changes in renewals regarding statement of basis, statement of applicability, monitoring, record keeping, and reporting issues.

Y N 18. How are you implementing the permit renewal process (ie., guidance, checklist to provide to permit applicants)?

Instructions for renewal permit applications can be found on our website. Otherwise, the permit renewals are being processed in a similar way that the initial permits were processed.

19. What % of renewal applications have you found to be timely and complete?

Around 75%. Most of the estimated 25% that were not were complete but not timely. The facility receives a notice 12 months in advance of permit expiration that a renewal application must be submitted nine months prior to permit expiration.

20. How many complete applications for renewals do you presently have in-house ready to process?

Approximately ~100

N 21. Have you been able to or plan to process these renewals within the part 70 timeframe of 18 months? If not, what can EPA do to help?

Yes, the focus on initial Title V permit issuance to meet the commitment schedule resulted in some delays in the issuance of renewals. However, now that the majority of initial Title V permits have been issued, significant progress has been made since January of 2004 in reducing the backlog of pending applications for renewals.

Y 22. Have you ever determined that an issued permit must be revised or revoked to assure compliance with the applicable requirements?

In order to streamline corrections to administrative or technical oversights or errors, we have been able to avoid initiating permit revisions by requesting that facilities apply for modifications to the existing permits to make these corrections.

F. Compliance

1. Deviation reporting:

a. Which deviations do you require be reported prior to the semi-annual monitoring report? Describe.

Malfunctions, emergencies, deviations of permit or regulatory requirements within 30 days of the deviation. All deviations must be reported no more than 30 days after the occurrence (not just monitoring violations or those violations of parameters as shown by monitoring) – not all deviations would be included in the semi-annual monitoring report. An exception to 30 day deviation reporting exists for those deviations recorded by CEM and COM systems and for which quarterly reporting is required. Other similar exceptions may exist.

N b. Do you require that some deviations be reported by telephone?

Yes, malfunctions and emergencies (anywhere from immediately to three days depending upon permit conditions).

N c. If yes, do you require a followup written report? If yes, within what timeframe?

Yes, usually within 7 days, but not more than 30 days, depending on the permit condition.

N d. Do you require that all deviation reports be certified by a responsible official? (If no, describe which deviation reports are not certified).

All reports required to be submitted by the CAAPP permit must be certified by a responsible official. This requirement is included in term 9.9 of the general terms of the CAAPP permits.

N i. Do you require all certifications at the time of submittal?

N ii. If not, do you allow the responsible official to "back certify" deviation reports? If you allow the responsible official to "back certify" deviation reports, what timeframe do you allow for the followup certifications (e.g., within 30 days; at the time of the semi-annual deviation reporting)?

Any report initially submitted without a certification is required to be resubmitted in whole with signed certification.

2. How does your program define deviation?

Deviations are akin to violations, and result from direct measurements of exceedances. Parameter deviations that are not direct measurements are to be reported in the semi-annual reports.

Noncompliance with emission limits, regulatory requirements and permit requirements, including monitoring, recordkeeping and reporting requirements.

Y a. Do you require only violations of permit terms to be reported as deviations?

No, any violation of regulation must be reported.

b. Which of the following do you require to be reported as a deviation (Check all that apply):

N i. excess emissions excused due to emergencies (pursuant to 70.6(g))

Questions from i. to vi: *Needs to be contained in the generally applicable report with a full explanation of the event and a claim of exemption if applicable*

N ii. excess emissions excused due to SIP provisions (cite the specific state rule)

N iii. excess emissions allowed under NSPS or MACT SSM provisions?

N iv. excursions from specified parameter ranges where such excursions are not a monitoring violation (as defined in CAM)

N v. excursions from specified parameter ranges where such excursions are credible evidence of an emission violation

N vi. failure to collect data/conduct monitoring where such failure is "excused":

N A. during scheduled routine maintenance or calibration checks

N B. where less than 100% data collection is allowed by the permit

N C. due to an emergency

N vii. Other? Describe.

3. Do your deviation reports include:

N a. the probable cause of the deviation?

Yes

N b. any corrective actions taken?

Yes

N c. the magnitude and duration of the deviation?

N 4. Do you define "prompt" reporting of deviations as more frequent than semi-annual?

Within 30 days of deviation

N 5. Do you require a written report for deviations?

N 6. Do you require that a responsible official certify all deviation reports?

7. What is your procedure for reviewing and following up on:

For items a through c below, the answers are the same as the answer regarding deviation reports. Deviation reports, semi-annual monitoring reports, and annual compliance certifications are reviewed very similarly by the Compliance Section in the central office. A copy of the report is sent to the field office if they don't already have one. All documents are first reviewed for completeness (i.e. Certification by R.O., cause or reason for report, corrective actions (as applicable) and impact of incident (as applicable), etc.). The documents are all "cross reviewed" with the applicable regulations, permit conditions, and, as necessary, previously submitted reports.

a. deviation reports?

We check for a history of other deviation reports, to ensure that other required reports have been submitted, check other documents to determine if any violations have occurred. This may require consultation with other parties, such as the Field Operation Section, the Permit Section, or the company.

b. semi-annual monitoring reports?

c. annual compliance certifications?

Two years ago, sources became required to certify compliance condition by condition in Illinois. Accordingly, the IEPA reviews the report tracking system to verify that reporting for that source for that year matches the annual compliance certification. For example, when a facility certifies compliance but it is known it is not in compliance (either the source has submitted reports to that effect; a compliance action is being taken; an inspection report has been created that shows non-compliance, etc.), the annual compliance certification would allegedly be incorrect and would become a part of an enforcement action.

8. What percentage of the following reports do you review?

a. deviation reports

100%

b. semi-annual monitoring reports

100%

c. annual compliance certification

100%

9. Compliance certifications

N a. Have you developed a compliance certification form? If no, go to question 7.

Yes, a compliance certification form has been developed. It is available on our website at the following address:

<http://www.epa.state.il.us/air/caapp/296-caapp.pdf>

Instructions are available at:

<http://www.epa.state.il.us/air/caapp/296-caapp-inst.pdf>

Form CAAPP-401 is the annual compliance certification form and it has a table that the facility can use to certify unit by unit.

N i. Is the certification form consistent with your rules?

- ii. Is compliance based on whether compliance is continuous or intermittent or whether the compliance monitoring method is continuous or intermittent?

Both pieces of information are required and utilized, but compliance is based on whether compliance is continuous or intermittent.

The facility has the option to certify compliance based on intermittent data. The facility must certify compliance or not, and then state whether the data used to support the certification is intermittent or continuous.

- Y N iii. Do you require sources to use the form? What percentage do?

No, but the majority of sources do utilize the form.

- Y N iv. Does the form account for the use of credible evidence?

The form does not specifically mention credible evidence, but it does require that the source provide the compliance determination method, which may be the monitoring required by the permit or may be credible evidence.

Question is ambiguous – answer is likely yes.

- Y N v. Does the form require the source to specify the monitoring method used to determine compliance where there are options for monitoring, including which method was used where more than one method exists?

Yes.

10. Excess emissions provisions:

- Y N a. Does your program include an emergency defense provision as provided in 70.6(g)? If yes, does it:

Yes.

- Y N i. Provide relief from penalties?

Not necessarily

- Y N ii. Provide injunctive relief?

Y N iii. Excuse noncompliance?

Not necessarily

Y N b. Does your program include a SIP excess emissions provision?
If no, go to 6.c. If yes does it:

Y N i. Provide relief from penalties?

Not necessarily

Y N ii. Provide injunctive relief?

Y N iii. Excuse noncompliance?

Not necessarily

c. Do you require the source to obtain a written concurrence from the PA before the source can qualify for:

For all three questions below the answer is no, but the determinations of compliance status and whether to pursue enforcement rests solely with the IEPA.

Y N i. the emergency defense provision?

Y N ii. the SIP excess emissions provision?

Y N iii. NSPS/NESHAP SSM excess emissions provisions?

11. Is your compliance certification rule based on:

The annual compliance certification seeks information on both issues

Y N a. the '97 revisions to part 70 - i.e., is the compliance certification rule based on whether the compliance monitoring method is continuous or intermittent; or:

Y N b. the '92 part 70 rule - i.e., is the compliance certification rule based on whether compliance was continuous or intermittent?

12. Any additional comments on compliance?

The Compliance Section staffing is lower than it should be for the level of work that needs to be done. The source monitoring and testing unit consists of two people (Kevin Mattison and Bill Franek). The compliance unit consists of 6 employees. The enforcement unit is made up of 6 attorneys. There are some vacancies in these units, but due to budget restraints and restructuring it is difficult to determine the number of vacancies that will be filled in the future. In order for CAAPP permits to include more frequent stack testing or compliance demonstrations, workload issues would need to be resolved to assure observation and reviews of those tests or demonstrations.

Two areas where we could use help from USEPA: help in reviewing test protocols and/or reports, and non-emissions testing reports coming in, particularly for the NESHAP source categories (for example, Subpart RRR issues are being taken on by Region5). Also, NESHAP training should be provided for individual MACT standards.

G. Resources & Internal Management Support

Y 1. Are there any competing resource priorities for your "title V" staff in issuing Title V permits?

a. If so, what are they?

2. Are there any initiatives instituted by your management that recognize/reward your permit staff for getting past barriers in implementing the title V program that you would care to share?

Paid overtime during budget crunch when paid overtime not otherwise available; employee of the month award (picture with Director, statue, coffee mug).

3. How is management kept up to date on permit issuance?

Our Permit Tracking and ICEMAN systems are very instrumental in this for the permit unit supervisor. Every public notice for a draft CAAPP permit goes in a weekly report to the Director that is coordinated by the Bureau Chief's office. Internal permit database established for the commitment schedule can also be used to communicate permit issuance numbers for public presentations. Prior to December 1, 2003, acting Manager of DAPC checked in daily with acting Permit Section Manager for issues relating to both NSR and CAAPP permits. Higher levels of management checked in periodically to track compliance with commitment schedule and issues relating to the utility permits.

N 4. Do you meet on a regular basis to address issues and problems related to permit writing?

We used to meet on a monthly basis. Since we have three manager vacancies in the CAAPP section, these meetings have not occurred. We plan to re-start these meetings once the current lack of management is addressed, either by hiring or by restructuring.

Y 5. Do you charge Title V fees based on emission volume?

No, we charge CAAPP fees based on “allowable” emissions presented by an applicant on the special fee form submitted with an application. “Allowable” emissions are defined in the Act (39.5(18)) as limits that are requested by the applicant in the CAAPP applications. They are specifically designed for fee purposes, not necessarily based on any other standard, and they are state-only enforceable. No inflationary provisions are included in the fee program.

a. If not, what is the basis for your fees?

See above

b. What is your Title V fee?

Our current fees are \$18.00/ton of “allowable” emissions, which is an increase from \$13.50/ton that was authorized in 2003. The CAAPP fee cap per source is \$250,000.

6. How do you track title V expenses?

Title V expenses are for Title V sites. They are coded AP12 and tracked through our GAS accounting system. Title V expenses include: salaries for CAAPP permit writers, field office and compliance staff involved into CAAPP inspection , regulatory development for programs applying to CAAPP sources, planners and modelers assisting in PSD permits for CAAPP sources, administrative staff performing CAAPP duties, public outreach staff salary, and computer support for CAAPP purposes.

The fees cannot be used for enforcement (attorneys) according to the Act.

7. How do you track title V fee revenue?

Each Title V site is identified with a unique ID#. They are billed under their ID. Fiscal receives and logs all Title V payments into the Agency’s Cash Management system referencing the site ID#. Cash Management updates into BOA’s ICEMAN permit tracking system each night reflecting the payment in BOA’s billing system. If a payment comes in that does not have the site

ID referenced Fiscal contacts BOA's budget office for it to research and provide site ID information.

8. How many Title V permit writers does the agency have on staff (number of FTE's)?

14 permit writers work in the CAAPP unit full-time on CAAPP permits, plus 3 permit writers who work in utility/NSR unit writing the CAAPP permits for the utilities as well as construction permits for the utilities.

Y N 9. Do the permit writers work full time on Title V?

a. If not, describe their main activities and percentage of time on title V permits.

3 permit writers in the utility/NSR group who write CAAPP permits spend about 50% of their time on CAAPP permits.

b. How do you track the time allocated to Title V activities versus other non-title V activities?

The staff has a code for operating permits and a different code for construction permits; these codes are entered in the bi-weekly timekeeping system. The FESOP permit writers code their time according to operating or construction permits as well, because they write both construction and operating permits for FESOP sources.

Y N 10. Are you currently fully staffed?

All managers (one unit and two sub-unit managers) have left the CAAPP unit. All permit writers positions are filled.

11. What is the ratio of permits to permit writers?

Approximately - 45:1 (totally 17 permit writers)

12. Describe staff turnover.

The turnover in the CAAPP unit has been below the Agency's average for turnover in Professional Staff. For the entire permit section for a period of 10 years, the turnover is established to be over 100%.

a. How does this impact permit issuance?

Turnover causes workload shifting and time lost for training new staff. Management turnover is causing higher levels of management to be more involved in day to day CAAPP operations than is desirable, and detracts from other portions of the Permit Section.

b. How does the permitting authority minimize turnover?

The Agency is constrained by state-wide personnel rules, salary schedules, promotional ladders, lack of incentive programs, and annual budget processes.

N 13. Do you have a career ladder for permit writers?

a. If so, please describe.

Most of the permit writers are Environmental Protection Engineers I, II, or III. These positions are subject to semi-automatic promotion based on the annual evaluation. However, after 4-5 years of service, those engineers are reaching the maximum salary cap with a very few options of advancing further. It is also possible to be promoted to one level higher prior to entry into management, but these opportunities occur rarely and with restrictions which may include seniority.

N 14. Do you have the flexibility to offer competitive salaries?

We have at times been able to post Engineer II positions for external candidates, but those situations are rare. Any qualified Engineer I must be hired prior to an external candidate. At any given level, any engineer can be hired at a higher step, depending on qualifications.

We also have the ability to reimburse educational expenses?

N 15. Can you hire experienced people with commensurate salaries?

See our response to #14 above

16. Describe the type of training given to your new and existing permit writers.

Mentoring for new staff and periodic training for existing staff. There are a series of federal training programs (APTI) that new permit engineer undergoes. New engineers are placed in the FESOP/small source unit and then moved to the CAAPP unit as their skill development allows.

17. Does your training cover:

N a. how to develop periodic and/or sufficiency monitoring in permits?

The APTI effective permit writer training.

N b. how to ensure that permit terms and conditions are enforceable as a practical matter?

The APTI effective permit writer training.

Y N c. how to write a Statement of Basis?

See previous comments regarding Statement of Basis.

N 18. Is there anything that EPA can do to assist/improve your training? Please describe.

Yes, to the extent that there is an agreement on the content of the training.

19. How has the PA organized itself to address Title V permit issuance?

CAAPP unit of the Permit Section is responsible for issuance of all non-utilities Title V permits. Construction/Utilities unit of the Permit Section drafts Title V permits for utilities.

20. Overall, what is the biggest internal roadblock to permit issuance from the prospective of Resources and Internal Management Support?

Departure of all managers from the CAAPP unit. Experience of permit writers used to be a problem, but permit writers have now gained enough experience to write permits proficiently. Lack of supervisors affect the unit's ability to achieve consistency in drafting Title V permits and implementation of the Agency and USEPA policies.

Environmental Justice Resources

N 21. Do you have Environmental Justice (EJ) legislation, policy or general guidance which helps to direct permitting efforts?

Both Illinois EPA and USEPA guidances are too general and lack certain criteria's to be considered helpful for Title V writes.

If so, may EPA obtain copies of appropriate documentation?

A draft, interim environmental justice policy is available on our website:

<http://www.epa.state.il.us/environmental-justice/>

N 22. Do you have an in-house EJ office or coordinator, charged with oversight of EJ related activities?

We have an environmental justice officer for the agency, who works on environmental justice issues in the air bureau. Permitting staff has also worked on environmental justice issues when they are raised in the context of permit issuance.

Y 23. Have you provided EJ training / guidance to your permit writers?

N 24. Do the permit writers have access to demographic information necessary for EJ assessments? (e.g., soci-economic status, minority populations, etc.)

However, lack of appropriate training and knowledge of non-engineering subjects (e.g., social-economics, demography, etc.) has prevented us from full application of those tools.

Y 25. When reviewing an initial or renewal application, is any screening for potential EJ issues performed? If so, please describe the process and/or attach guidance.

H. Title V Benefits

1. Compared to the period before you began implementing the Title V program, does the Title V staff generally have a better understanding of:

N a. NSPS requirements?

N b. The stationary source requirements in the SIP?

N c. The minor NSR program?

N d. The major NSR/PSD program?

N e. How to design monitoring terms to assure compliance?

- N f. How to write enforceable permit terms?
2. Compared to the period before you began implementing the Title V program, do you have better/more complete information about:
- N a. Your source universe including additional sources previously unknown to you?
- N b. Your source operations (e.g., better technical understanding of source operations; more complete information about emission units and/or control devices; etc.)?
- N c. Your stationary source emissions inventory?
- N d. Applicability and more enforceable (clearer) permits?
3. In issuing the Title V permits:
- N a. Have you noted inconsistencies in how sources had previously been regulated (e.g., different emission limits or frequency of testing for similar units)? If yes, describe.

We are using a Title V permit as a tool to reconsider some inconsistencies and fix unneeded flaws in our previously used state permit(s) for a source. Such reevaluation may include the following:

- *Single source issue;*
- *Applicable rules;*
- *New emission limits;*
- *Additional testing and monitoring requirements, as required by rules;*
- *Appropriate recordkeeping, as essential part of compliance determination;*
- *Emission factors and formulas for more accurate emission calculations.*

- N b. Have you taken (or are you taking) steps to assure better regulatory consistency within source categories and/or between sources? If yes, describe.

For the better regulatory consistency, we try to assign certain source categories (medical waste incinerators, landfills, refineries, utilities, etc.) to one or two permit engineers who are the experts in that area. The same approach is used for the multiple CAAPP permits of any single company.

4. Based on your experience, estimate the frequency with which potential compliance problems were identified through the permit issuance process:

Never Occasionally Frequently Often

- a. *prior to submitting an application* **Occasionally**
- b. *prior to issuing a draft permit* **Occasionally**
- c. *after issuing a final permit* **Occasionally**

5. Based on your experience with sources addressing compliance problems identified through the Title V permitting process, estimate the general rate of compliance with the following requirements prior to implementing Title V:

- a. *NSPS requirements (including failure to identify an NSPS as applicable)*
Often
- b. *SIP requirements* **Often**
- c. *Minor NSR requirements (including the requirement to obtain a permit)*
Frequently
- d. *Major NSR/PSD requirements (including the requirement to obtain a permit)*
Often

6. What changes in compliance behavior on the part of sources have you seen in response to Title V? (Check all that apply.)

- N a. increased use of self-audits?
- N b. increased use of environmental management systems?
- Y c. increased staff devoted to environmental management?
- N d. increased resources devoted to environmental control systems (e.g., maintenance of control equipment; installation of improved control devices; etc.)?
- N e. increased resources devoted to compliance monitoring?

- Y N f. better awareness of compliance obligations?
- Y N h. other? Describe.
- Y N 7. Have you noted a reduction in emissions due to the Title V program?
- Y N a. Did that lead to a change in the total fees collected either due to sources getting out of title V or improving their compliance?
- N/A
- Y N b. Did that lead to a change in the fee rate (dollars/ton rate)?
8. Has title V resulted in improved implementation of your air program in any of the following areas due to Title V:
- Y N a. netting actions
- Y N b. emission inventories
- Y N c. past records management (e.g., lost permits)
- Y N d. enforceability of PTE limits (e.g., consistent with guidance on enforceability of PTE limits such as the June 13, 1989 guidance)
- Y N e. identifying source categories or types of emission units with pervasive or persistent compliance problems; etc.
- Y N f. clarity and enforceability of NSR permit terms
- Y N g. better documentation of the basis for applicable requirements (e.g., emission limit in NSR permit taken to avoid PSD; throughput limit taken to stay under MACT threshold)
- Y N h. emissions trading programs
- Y N i. emission caps

Y N j. other (describe)

Entire permitting program for any particular source has been consolidated into one single CAAPP permit instead of numerous operating permits.

Y N 9. If yes to any of the above, would you care to share how this improvement came about? (E.g., increased training; outreach; targeted enforcement)?

Y N 10. Has Title V changed the way you conduct business?

Y N a. Are there aspects of the Title V program that you have extended to other program areas (e.g., require certification of accuracy and completeness for pre-construction permit applications and reports; increased records retention; inspection entry requirement language in NSR permits). If yes, describe.

Most of the construction permits for Title V sources are drafted in the same format as CAAPP permits.

Y N b. Have you made changes in how NSR permits are written and documented as a result of lessons learned in Title V (e.g., permit terms more clearly written; use of a statement of basis to document decision making)? If yes, describe.

Y N c. Do you work more closely with the sources? If yes, describe.

More on site visits are originated by permit engineers

Y N d. Do you devote more resources to public involvement? If yes, describe.

More frequent communication with the public (meetings, workshops, hearings, etc.) due to a higher level of public interest in the operation of major sources.

Y N e. Do you use information from Title V to target inspections and/or enforcement?

Y N f. Other ways? If yes, describe.

Y N 11. Has the Title V fee money been helpful in running the program?

Have you been able to provide:

- Y N a. better training?
- Y N b. more resources for your staff such as CFRs and computers?
- Y N c. better funding for travel to sources?
- Y N d. stable funding despite fluctuations in funding for other state programs?
- Y N e. incentives to hire and retain good staff?
- Y N f. are there other benefits of the fee program? Describe.
- Y N 12. Have you received positive feedback from citizens?
- Y N 13. Has industry expressed a benefit of Title V? If so, describe.

Number of companies and industrial groups have been pleased with consolidation of all operating permits under one “umbrella” (CAAPP permit). Also, more clarity and accuracy in conditions of the issued CAAPP’s permits are also beneficial for them.

- Y N 14. Do you perceive other benefits as a result of the Title V program? If so, describe.

Consolidation of numerous operating permits into one CAAPP has been beneficial.

- Y N 15. Other comments on benefits of title V?

Good Practices not addressed elsewhere in this questionnaire

Are any of the practices employed that improve the quality of the permits, or other aspects of title V program that are not addressed elsewhere in this questionnaire?

EPA assistance not addressed elsewhere in this questionnaire

Is there anything else EPA can do to help your title V program?

Attachment 2

**Recommended Components of
IEPA Action Plan**

Recommended Action Plan Components

Because of the large number of findings in this report, and because many of them are either similar or interrelated, USEPA recommends that IEPA develop a single action plan, which describes the activities IEPA plans to undertake to address the findings in this report. This action plan should be developed and submitted to USEPA for comment within 120 days of issuance of this report. For any issue that can be corrected prior to that date, the action plan should simply note that the issue has been addressed, with a summary of the corrective action that was taken and the date that it was taken. For issues that IEPA is unable to completely address within the next 120 days, the action plan should contain the following general information for each issue:

- identify any progress that has occurred so far;
- identify all corrective actions which will be taken to address findings;
- where practical, responsible parties for corrective actions should be identified;
- projected completion dates for corrective actions, with milestone dates where appropriate;
- identify the method by which IEPA staff will be directed to make changes necessary to implement corrective actions, including training where appropriate;
- identify the quality assurance method by which the permits will be reviewed to ensure implementation of corrective actions.

In addition, the action plan should contain the following information for individual findings:

1. Periodic Monitoring

The following information should be included in the action plan, relating to the development of periodic monitoring in Illinois Title V permits. Instructions or guidance for permit writers to comply with the federal requirements for periodic monitoring required by 40 C.F.R. § 70.6(a)(3)(i)(B) should be developed; if this cannot be accomplished within 120 days, the procedures for development of these instructions should be included in the action plan with a projected schedule of completion. The instructions to be developed should include, at a minimum, the following information:

- Criteria to be used by permit writers to determine when record keeping may serve as monitoring to meet the requirements of 40 C.F.R. § 70.6;
- Criteria to be used by permit writers to determine when no periodic monitoring is necessary to assure compliance;
- Criteria for determining the appropriate methods of measurement and frequency of measurement when establishing monitoring provisions in a permit;
- If parametric monitoring is to be used, the procedures for establishing appropriate ranges for parameters, and the language to be used for incorporating these procedures and parametric monitoring requirements into the permits.

If changes to permit application forms or the permit or project summary template language are

needed, then these changes should be completed within 120 days or a plan for implementing these changes should be included in the action plan.

2. Statement of Basis

The action plan to address the statement of basis finding should discuss revisions of the project summary template should be revised to include, at a minimum, the legal and factual basis, or rationale, for the following types of determinations:

- Any non-applicability determination placed in the permit;
- Any periodic monitoring developed in the permit, the decision that periodic monitoring is not necessary to assure compliance with an applicable requirement, or the decision that record keeping provisions meet the requirements of 40 C.F.R. § 70.6(a)(3)(i)(B);
- Whether a compliance schedule was required in the permit or not;
- Any Title I actions taken in the permit, to either create, revise, or delete Title I permit terms;
- Any other determination that requires judgment or discretion on the part of the permit writer, and is not a straightforward recitation of an applicable requirement.

A projected timeline for completion of these revisions should be included in the action plan, as well as development and presentation of any training necessary for permit writers. IEPA is also encouraged to look back to comments made by USEPA on the statement of basis template language - the first comments were made in December 2004, and the most recent comments were provided in Spring 2005 – when developing the scope of the action plan with respect to this issue.

3. Permit Shields

The action plan should include the development of instructions or guidance for permit writers about the criteria for placing non-applicability determinations in permits. These instructions should include, at a minimum, discussion of the following topics:

- identification of the types of non-applicability determinations which are straightforward, for which minimal judgment is required, that can be explained briefly in the permit itself;
- identification of the types of non-applicability determinations which are complex, and require judgment on the part of the permit writer;
- criteria for approval of the more complex non-applicability determinations, including what information is required from the permittee, and how that information is to be reviewed;
- placement of rationale for these determinations in the project summary

4. Written Response to Comments

The action plan should include measures to develop procedures to provide a written response to significant comments on permits. These procedures should include, at a minimum, discussion of the

following topics:

- designate staff responsible for responding to public comments;
- criteria for determining which comments are significant and require a written response;
- develop timeframe for providing a written responses;
- establish method of making responses to comments available (i.e. posting on the website, mailing them to commenters, etc.

5. Permit issuance strategy

The strategy would identify each pending application remaining for an initial Title V permit, or for an initial FESOP for a major Title V source, and for each one would list the following information:

- the staff permit writer assigned,
- identification of issues delaying permit issuance, and
- a projected date of final issuance.

Appendix A
Sample CAAPP Permit

Appendix H
Petition Response for Midwest Generation, Fisk Station

Appendix B
E-mail comments from USEPA to IEPA

Appendix C
White Paper II (March 5, 1996)

Appendix D
Title V renewal form and instructions (200-CAAPP)

Appendix G
Title V fee matrix

Appendix E
Summary of IPCB appeals in which IEPA did not
respond to petitioner's motion for stay of permit

Appendix F
Title I/Title V Implementation Agreement